1938

epartment of Revenue

OFFICE Board of Revenue

STATION Madras

His No. 3322

Dated 2/12/38

(SUBJECT.)

Registration. Land and Revenue - South Kanara
Kanchanady Village Surveyed
Extent 24. Sale - G.S. Bishop of Mangalore.
Order passed sanctioning the issue of the sale G.S.
Mangalore

Ref.4776-B3-36. South Kanara Collector's Office,

Mangalore, dated 21st October '36.

B 5040 RP 5.8

From

A. D. Crombie, Esquire, C.I.E., I.C.S.,

Collector of South Kanara.

The Secretary,

Board of Revenue,

M a d r a s.

Sir,

Alienation - Land - Mangalore Taluk - Kankanady B village - Burial ground Poramboke - Roman Catholic Bishop of Mangalore - Orders requested.

I submit for the orders of the Board the papers relating to the application of Roman Catholic Bishop of Mangalore for the alienation of S.No. 11/1 of Kankanady B village in his favour, the central portion 11/1B for the erection of a Parish Church and the remaining portions comprised in 11/1A and 1C to form a burial ground attached to the Church for the use of the Roman Catholics of Mangalore.

2. The history of this plot goes back to 1887. Some time previously to 1887. the burial ground which till then existed within the town seems to have been closed by the Municipality, and the formation of new grounds outside became a necessity. At the instance of the Municipal Council, the Collector recommended in October 1887 that a plot measuring 5 acres 29 guntas and 10 annas lying on the hill near the Carmelite Convent at Kankanady, outside Municipal limits might be granted to the Municipality for the opening of a burial ground for the Roman Catholic Christians of Mangalore. This ------- recommendations was accepted by Government, who in their order No. 1174 Revenue dated 20-12-1887, sanctioned the transfer of the plot to the Municipality free of assessment.

3. This plot is identical more or less with S.No.11/1

of Kankanady measuring 5.73 acres in extent appearing in the enclosed sketch which is the subject of this reference. Soon after the transfer of the plot to the Municipality, the ----- Council offered to hand over its management to the Bishop of Mangalore subject to the condition that he should enclose it with a substantial wall and that the provisions of Act IV of 1884 should be carried out by him to their full extent. The Bishop agreed to the conditions and the plot passed into the Bishop's management in April 1888. A wall was put up by him along the southern boundary of the plot in due course and as there were old walls on the north and east, the plot lay enclosed fully on all sides after 1888.

4. At the Settlement of this District, this plot was along with S.No. 11/2 and 5 formed into one sub-division measuring 7.51 acres and registered by mistake as Road Poramboke. This mistake came to notice in 1929 and as errors in survey were also detected at the same time, the plot was resurveyed and the road portion was subdivided and separated from the portion comprising the burial ground and the entries relating to registry suitably amended. A further portion of a cart track still lying within the limits of the plot separated as burial ground was also excluded after a further inspection in 1935. The result of this has been that S.No. 11/2 and 5 now stand registered as Road Poramboke and S.No. 11/1 as burial ground Poramboke in accordance with the actual state of things, their extents being as revised:-

	Acres. cents.
S.No. 11/1	5.73
2	1.12
5	0.32
Total ..	7.17

5. In spite of the mistakes at survey and settlement, there was no dispute whatever till about the beginning of 1935 regarding the use of S.No. 11/1 as burial ground for the Roman Catholics of Mangalore. In March 1935, a Mortuary Chapel was erected at the

western corner of the plot by some priests of the Roman Catholic Church and this seems to have been the beginning of disputes. The idea soon developed with the Church authorities of converting this Mortuary Chapel into a permanent Parish Church with the name of "Valencia Church" and with a resident parish priest with jurisdiction over the surrounding Catholics. This proposal evoked opposition among a certain number of the local Roman Catholics themselves though they are not among the more influential members and the matter was brought to the notice of my predecessor, Mr. Gawne by them in July 1935. - Mr. Gawne investigated the matter, refused to countenance the proposal, made on behalf of the Bishop, to use ~~of~~ a part of S.No.11/1 for the erection of the "Valencia Church" but he also refused to interfere in respect of the Bishop's practice of levying burial charges of which the dissenting Catholics had complained. I enclose D.Dis. file 3432-35, dated 25.9.35 of this office which contains Mr. Gawne's orders in this ----- matter. Under Section 280 (1) Madras District Municipalities Act of 1920, a Council can levy rents and fees in burial ----- grounds provided at its cost, and there seems to be no objection to the levy of fees by the Roman Catholic authorities in this case.

6. After the departure of Mr. Gawne from this district, the Bishop started again his agitation to secure a portion of the plot S.No.11/1 measuring 2 acres for the erection of the parish church, parish house and kitchen and enquiry was once again held into the matter. The dissenting Roman Catholics again opposed the proposal and the Collector (Khan Bahadur M. Humayun Saheb) refused to reconsider the orders passed by Mr. Gawne or to re-open the matter. I enclose D.Dis file 2175/36, dated 28.7.1936 of this office which contains ------ Mr. Humayun's order for the Board's perusal.

7. In spite of these orders of refusal, the Mortuary Chapel is actually being used as a church, though the use is said to be "temporary" at present. The matter came up for

discussion before a special meeting of the Municipal Council, Mangalore on 7.9.1936, but a resolution calling on the Bishop to refrain from using the plot "contrary to the terms and conditions under which the management was made over to him" was lost, 9 voting for the resolution and 14 against it. The Council thus stands committed to a policy of non-intervention in the matter, while the Bishop does not seem to have accepted as final the orders refusing permission for the erection of a parish church on the plot. The opposition party is meanwhile continuing its agitation with a view to seeing that the plot reserved as burial ground is not allowed to be used for any other purpose.

8. The Bishop and the local Roman Catholic Associati seem to have taken advantage of the visit to this district f the Hon'ble the Revenue Member in September (1936), to epresent their case to him. I enclose a copy of the ffice-note left by Khan Bahadur M. Humayun Saheb which giv ie results of the representations made to the Hon'ble the evenue Member. Subdivision records have now been --- repared, in accordance with this office-note, and the --- ahsildar has submitted proposals (1) to cancel the grant ade by Government to the Municipality in 1887, (2) to re-sume the plot and (3) to alienate it then in favour of the Lord Bishop - 11/1B for the construction of a parish church and a parish house and the rest for use as a burial ground as shown in the margin and as referred to paragraph 1 above.

Plots.	Extent. A. C.	Proposed use.
11/1B	1. 00	Parish church and parish house.
11/1A & 11/1C	1. 10 3. 63	For burial ground.
Total:	5. 73	

9. I have myself inspected the ground and I do not se much objection to the proposals. The ground does not

seem to have been much used and only a small portion is reserved for burials on payment of fees. There is a large extent left for free burials. I accordingly support the proposals.

10. I enclose statements in duplicate for alienation of land for information; there is no question of alienation of land revenue in this case. A list of improvements standing on the plot is also enclosed; all the improvements were effected by the Bishop. Conditions of alienation have not been offered to the Bishop yet, as the plot has not yet been resumed from the ------ Municipality. I shall offer them, on receipt of orders on this report.

Collector. 22/10

Enclosures:- 22.10.36

1. A plan of the locality.
2. D.Dis. file 3432-35 dated 25.9.1935 of this office.
3. D.Dis. file 2175-36 dated 28.7.1936 of this office.
4. Copy of office note dated 29.9.1936 of Khan Bahadur Muhammad Humayun Saheb, Acting Collector.
5. Statement of alienation of land in duplicate.
6. List of improvements standing on the plot.

Office Note.

During the discussion with the deputation led by the Bishop and the Roman Catholic Association the Hon'ble the Revenue Member was pleased to direct that the question of alienating, for the Valencia Parish Church building a portion of the land in the cemetery should be re-opened and examined thoroughly. The land for the cemetery was alienated long ago by the Government to the Mangalore Municipality. The Mangalore Municipality transferred the whole of that land to the Bishop for burial of Roman Catholic As the head of the Roman Catholics the Bishop has been managing the cemetery in the best interests of his subjects. On account the hostility of a few Municipal Councillors some objections were raised in the Municipal Council as regards the manner in which th cemetery was being managed by the Lord Bishop. It was finally agreed that as the Lord Bishop was the proper authority to manage the cemetery in the manner he thought fit the Municipality should not interfere in the matter. The request of the Bishop before the Hon'ble Member was that the elevated portion in the middle of the land alienated in favour of the Municipality should now be alienated to the Bishop for the construction of a Parish Church building and a parochial house. The whole land measures 6 acres. The request of the Bishop was that just one acre should be -------- alienated for the said building. There is nothing to prevent ---- Government from resuming the alienation made in favour of the Municipality as it has not been managing the cemetery itself. No Municipal Councillor can raise any objection to such resumption as it does not affect the rights of the public or any other person. When submitting proposals for resumption a recommendation should be made that one acre of land may be alienated for a parish church building and a parochial house and that the rest of the land about 5 acres be alienated afresh in favour of the Bishop for a cemetery. This will solve all the difficulties and will prevent the Municipal Councillors from trying to bully the Roman Catholics further.

The Tahsildar should be asked to submit sub division records for carrying out these proposals. The sub division records should be prepared in consultation with the Bishop.

Action should be taken urgently so that the matter may go up before the Hon'ble the Revenue Member as soon as possible.

South Kanara Collector's Office,
Mangalore, 28th September 1936.

(Sd.) M. Humayun,
Collector.

Application for the alienation of land in which the proprietary right belongs to the State.

South Kanara District.

1. Description and area:	Mangalore Taluk 84 B Kankanady village, Burial ground Poramboke.		
	S.No.11/1A	-	1.10 acres.
	" 11/1B	-	1.00 "
	" 11/1C	-	3.63 "
		Total:	5.73 "
2. Market value:	11/1A	-	Rs.1375. 0. 0
	11/1B	-	Rs.1250. 0. 0
	11/1C	-	Rs.4537. 8. 0
		Total:	Rs.7162. 8. 0
	(excluding cost of improvements belonging to the alienee Rs.2780/-).		
3. Alienees and purposes of alienation:	The Roman Catholic Bishop of Mangalore.		
	S.Nos.11/1A & 1C for a burial ground for the Roman Catholics.		
	S.No.11/1B for a Parish Church and parochial house.		

South Kanara Collector's Office,
Mangalore, 21st October 1936.

22.X.36
For Collector.

22.10.36

List of improvements etc. existing on S.Nos.11/1A to 1C of 84 B Kankanady and T.S.732/2 of 84 A Kankanady.

	Estimated value.
S.No.11/1A.	
1. Tiled mortuary Chapel building.	Rs.2500- 0- 0
2. Mud walls on 2 sides.	Rs. 50- 0- 0
	Rs.2550- 0- 0
S.No.11/1B.	
1. Mud walls.	Rs. 25- 0- 0
2. Wooden cross with stone pedastal..	Rs. 30- 0- 0
	Rs. 55- 0- 0
S.No.11/1C.	
Mud walls.	Rs. 75- 0- 0
T.S.No.732/2.	
Gate, mud walls and stone pillars.	Rs. 100- 0- 0
Grand total	Rs.2780- 0- 0

(Sd.) J.S. Suvarna
12.10.
Tahsildar of Mangalore.

(Sd.) T.M. D'Sa
3.10.36
Revenue Inspector.

(True Copy)

MM-1 22.X.36
for Collector.

Bond
22.10.36

Ref.4776-B3-36. South Kanara Collector's Office,

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South Kanara Collector's Office,
Mangalore, 28th September 1936.

(Sd.) M. Humayun,
Collector.

(True Copy)

22.x.36
Collector.

22.10.36

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South Kanara Collector's Office,
Mangalore, 21st October 1936.

22.X.36
For Collector.

22-10-36

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1. Mud walls.	Rs. 25- 0- 0
2. Wooden cross with stone pedastal..	Rs. 30- 0- 0
	Rs. 55- 0- 0
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Mud walls.	Rs. 75- 0- 0
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Gate, mud walls and stone pillars.	Rs. 100- 0- 0
Grand total	Rs.2780- 0- 0

(Sd.) J.S. Suvarna
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Tahsildar of Mangalore.

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Revenue Inspector.

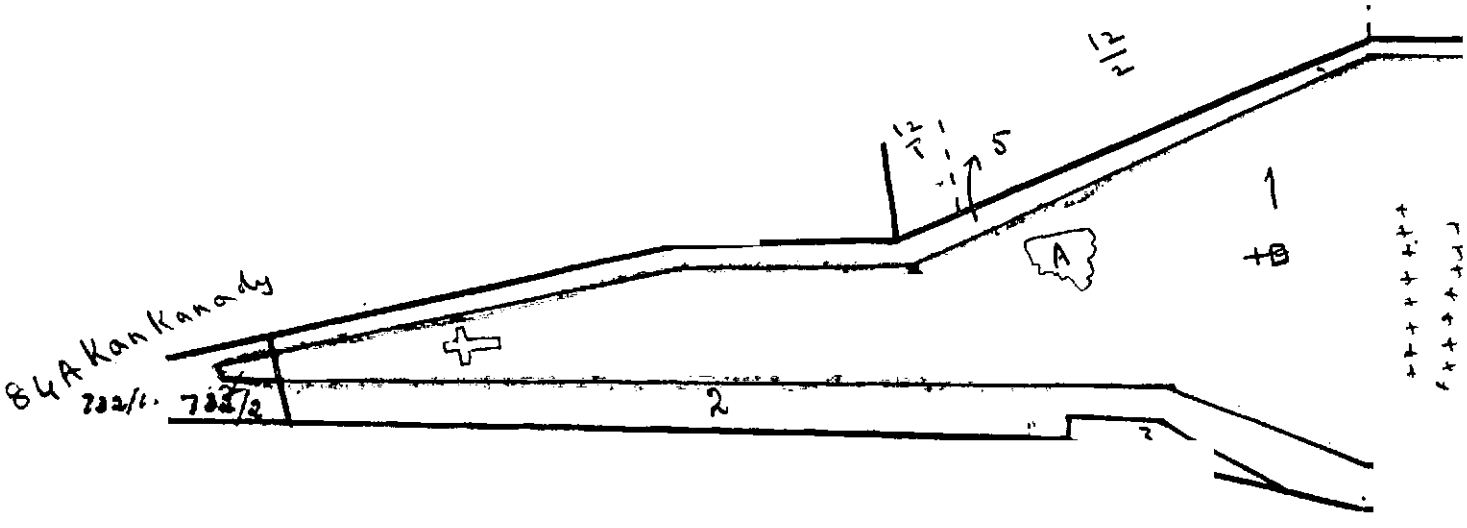
(True Copy)

22.x.36
for Collector.

22.10.36

District :- South Kanara.
Taluk :- Mangalore.

Field No. 11.



85 Jeppina mogaru

Index

no. 11-1 - Burial ground Por.

2, 5 } Road Poramboke

3 Hts. land of Jnana Saraswathi Devi.

4 " K. Panduranga Rao.

12-1, 2 } Kadim lands of Albert Rego.

4. Hts. no Bhojaraj.

15 Hts. land of Seetamma.

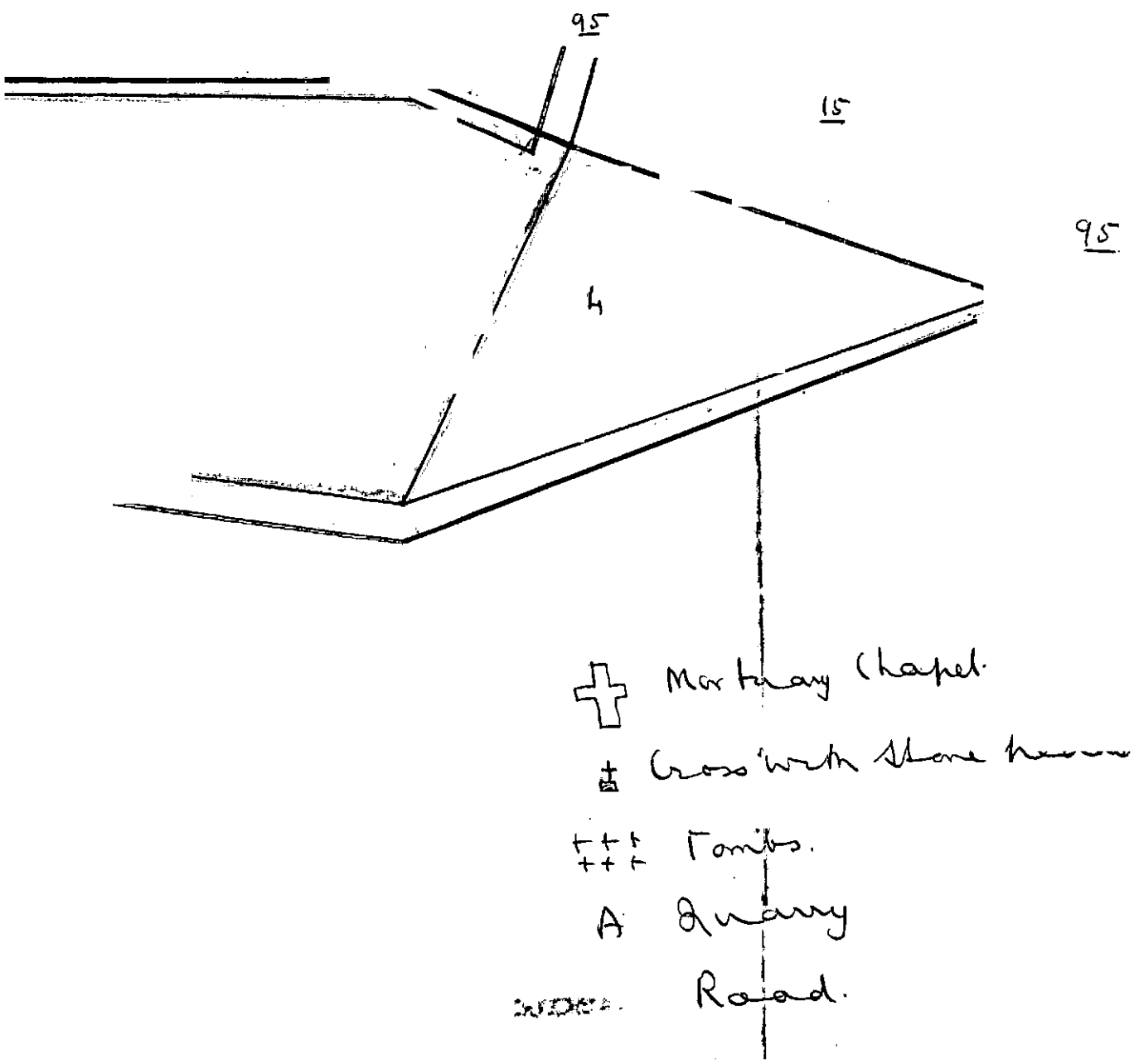
45 " Subramanya Rao

T.S. 732/1 to 2 . Road poramboke.

T.S. 732/2 to S.no. 11/1 Proposed for resumpt

Village { Name Kankanady.

12/5



Mortuary Chapel.

Cross with Stone housed.

Tombs.

A Quarry

Road.

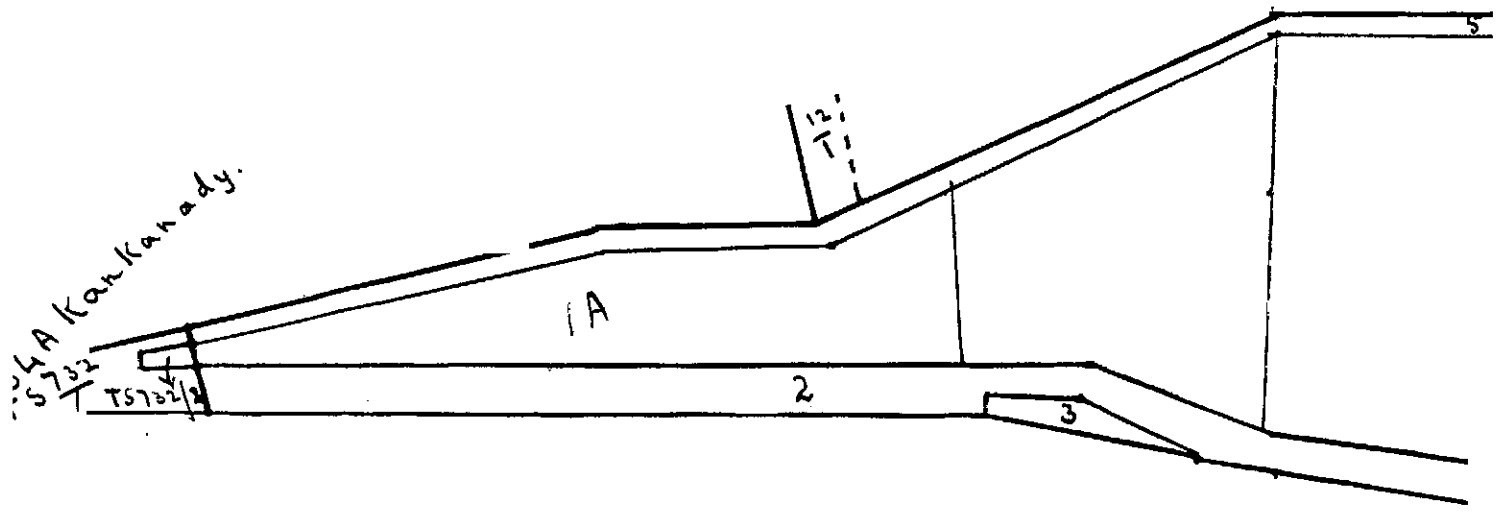
District:. South Kanara

Taluk:. Mangalore.

Village { No
Nam

Area

Field No. 11.



Jeppinamoger Vill

1A B Kankanady.

Road Poramboke.
Hos. land of Joana Francisca Coelho.
Panduranga Rao.

5 Road poramboke.

2-1 } Kadim land of Albert Reg
2 } Bhoja Rao
4 "

15. Hos. land of Seetamma.

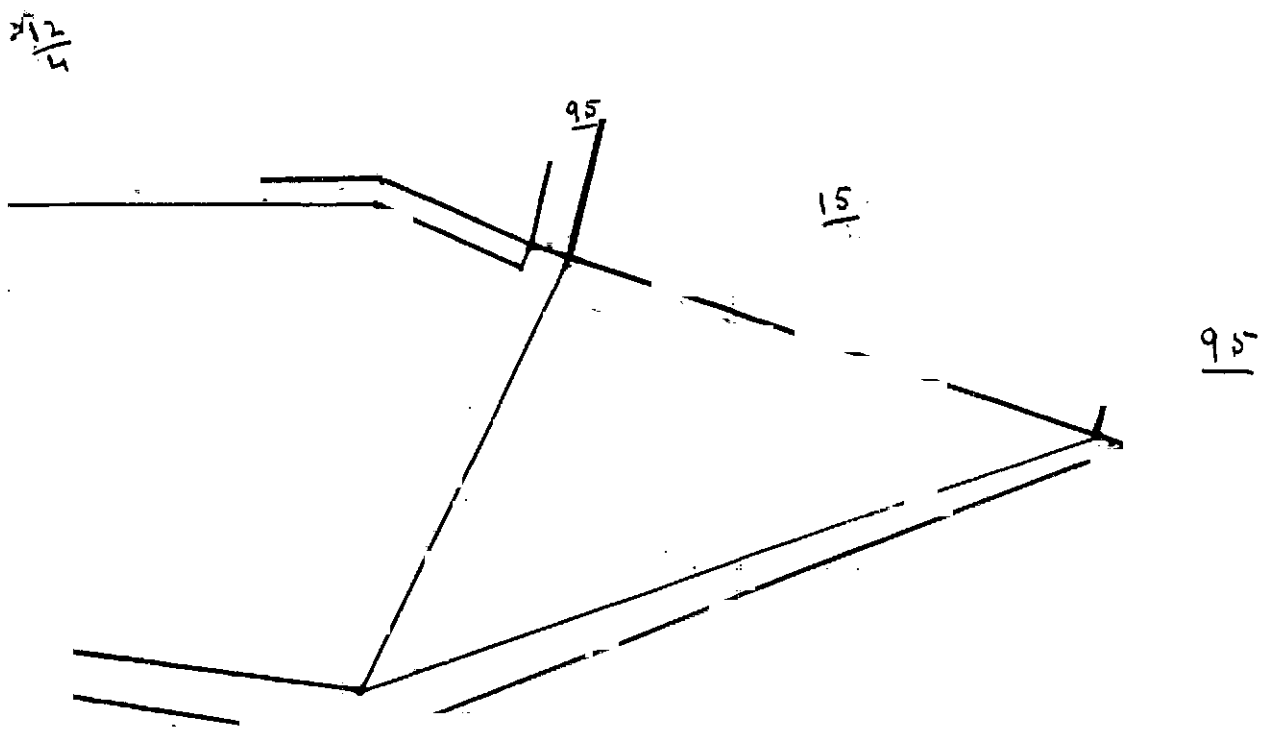
95. " Panduranga Rao

11-1A+1C Plots proposed for alienation in favour of Basel Mission at Mangalore for Burial ground. Scale 1/2" = one C

1B Plot proposed for alienation in favour of Bishop of

Kankanadi

13 acres.



Index 8 L A Kankanady

T. 732-1/2 Road Proceedings.

732-2 3/4 Plan proposed to enquire in favour of Bishop of Mangalore for Burial ground

NOV 1936

51

...of ...re- ...d.

...and ... or ... of the record.

... date ... of the cur- rent for which required.

Received

2-11-36

2 ... 1936

Valencia Parish

and

Valencia Cemetery

PREFACE

At a meeting of several leading members of the Catholic Community held on 28th August, at which I presided, it was resolved that this brochure should be published for the enlightenment of our Community and the public. Rev. Fr. M. Menezes, the Vicar of Valencia, has taken much trouble to provide statistics, copies of exhibits and other material. I trust that this brochure will be read with interest.

P. D'Souza, B. A., B. L.

1st September 1936.

VALENCIA PARISH AND VALENCIA CEMETERY

A new parish was created on 1—3—1935 by a Decree of His Lordship the Bishop, formed out of the distant parts of the old parishes of the Cathedral and Milagres. It is dedicated to St. Vincent Ferrer, and therefore named after his birthplace, Valencia.

Reasons for the creation of this new parish.

(1) Convenience of a large number of families (over 2000 persons) for attending Divine Service on Sundays and other days of obligation, as well as every day of the week, also other religious services, for frequent reception of Sacraments, for greater convenience for funerals; (2) for more efficient administration by the Parish Priest, resulting in closer touch with the parishioners for their improvement in various directions; (3) to prevent people of the locality from attending Divine Service on Sundays and days of obligation, in the Carmelite Convent Chapel, where sermon is not preached at Mass; and (4) to diminish excessive crowding in the Jeppoo Seminary Chapel for Divine Service on Sundays and other days of obligation.

It is evident from the above that the creation of the new parish of Valencia, has been a blessing for a very large number of Catholics and for increasing the zeal for spirituality among them. Moreover, Canon Law provides for the creation of new parishes. Canon 1427 reads thus:—"The Ordinaries can, for a just canonical cause, divide any parishes, lso against the will of the Rectors and without the consent of he people, by erecting a perpetual vicariate or a new parish, r by dismembering the same, and giving part to another lready established parish."

"There is only one canonical reason for dividing or lismembering a parish, viz., either too great a difficulty for he people to go to the parish Church or too numerous a ongregation whose spiritual welfare cannot be taken care of, y the appointment of assistants to the pastor."

From the time of the regime of the late Bishop Perini, of eloved memory, up to the present time, the Catholics of the ocality have been continually praying for the formation of this

new parish. The same Catholics are now extremely grateful to our zealous and sympathetic Bishop for granting their prayer.

About 70 families of the old Milagres Parish included within the area demarcated for the new Valencia Parish by Decree of the Bishop, objected to their separation from the Milagres Parish and to their inclusion in Valencia, on grounds of sentiment, viz., their great attachment to, and love for their old parish, and the burial of their ancestors(?) in the cemetery at Milagres. At the present time, excepting 16 families, all the rest have submitted to the Decree of the Bishop and have had their houses blessed by the Parish Priest of Valencia, at Easter time. Those that refused to submit to the Decree of the Bishop, having failed to obtain permission from the Bishop to be retained in the old parish of Milagres, had appealed to Rome. In doing so, they exercised their legitimate right, for "The gates of Rome are open to all Catholics." The decision of Rome, finally rejecting their appeal, has been communicated directly from Rome to the appellants. No other alternative is now open to the appellants than submission to the Decree of the Bishop. "Rome has spoken, the cause is finished."

Though the Valencia Parish has been constituted by an irrevocable Decree on 1-3-1935, the Parish Church is still to be erected. Temporarily, pending the construction of the parish church, parochial services are held in the mortuary chapel, intended for the burial of the secular clergy, within the Valencia Cemetery.

The said Mortuary Chapel, which has been financed by Rev. Fr. Vincent Rebello, a generous retired old secular priest, was completed early in 1935 and its inauguration took place on 10—2—1935. Immediately after the inauguration service, a large group photo was taken, of the Bishop, the clergy and the laity who had attended the inauguration ceremony. At this time, the Valencia Parish had not been constituted. It was constituted by the Decree of the Bishop, given on 1—3—1935.

Every attempt is being made for providing a Parish Church. His Lordship the Bishop moved the Collector to assign a small portion in the centre and more elevated part of the cemetery for the location of the Parish Church. Though this petition has not been granted, let us hope that in the near

future, with God's help, this great and pressing need will be provided for.

The history of the Valencia Cemetery is very interesting. On 20—12—1887, Government sanctioned the transfer to the Mangalore Municipality, free of assessment, of the Barifalke Cemetery, now called Valencia Cemetery, measuring 6·06 acres for burials of Roman Catholic Christians (Vide Appendix A).

The Municipal Council in its Resolution No. 4 dated 29—2—1888, asked the Bishop of Mangalore whether he was willing to take over the management of this Roman Catholic Cemetery subject to the conditions (1) that he encloses it with a substantial wall and (2) that the provisions of Act IV of 1884 are carried out to their full extent. The then Bishop having agreed to these two conditions, the Council in its Resolution No. 10 dated 11—4—1888 approved the proposal f the transfer of the site to the Bishop. The two Resolutions f the Municipal Council mentioned above, and the conditions ıid down in the burial and burning ground sections of the above ıct are given in appendix B.

It must be carefully noted that both in the G. O. sanc- oning the transfer of the land for the burial of Roman atholic Christians, and in the Resolution of the Council ansferring the cemetery to the Bishop, there are absolutely o stipulations about free burials; neither is it stated anywhere ıat the cemetery is intended for the use of the whole town of langalore. It was made over to the Bishop, and it is his right) make use of it according to the requirements of the town. If :her conditions had been laid down by the Government or ıe Municipality, it was then open to the Bishop to reject the fer of the Cemetery.

As stated above, the Valencia Cemetery was made over to the Bishop on 11—4—1888. It was then entrusted by the Bishop to the administration of the Cathedral Board, which is proved by the Resolutions both of the Cathedral Board as well as of the Milagres Board (Vide appendix C).

Soon after the transfer of the land (6 acres) to the Bishop, it was enclosed with a mud wall of the old pattern with a broad base, by the Cathedral Board at a cost of over Rs. 500.

The old wall still exists on the northern and eastern sides, to about 2/5 of the total length. The Milagres Board was also permitted by the Cathedral Board to make use of the Cemetery, and in 1923, the enclosing wall was partly repaired and partly renewed by the Milagres Board at a cost of about Rs. 575/-. The cross standing on a stone masonry pedestal was erected by Mr. Xavier Sequeira, a Gurkar of the Cathedral Parish, at his own expense about the year 1928. The statement that the Cemetery was applied for, and granted by Government to the people of Milagres, through their parish priest, for free burials is not supported by facts. On the creation of the Valencia Parish, the said cemetery falling within the territorial jurisdiction of the Valencia parish, has been placed under the control of the Parish Priest of Valencia. 44 cents out of this have been allotted for the use of the paying class, and portions have been set apart for lepers and other patients dying in Fr. Muller's Institutions, as well as for free burials of others who apply for them.

The statements of the objectors, that this burial ground has been utilized for burials of only poor Catholics of the whole town from the time of the grant in 1888 and that it should be reserved as such for the sole use of the poor, are proved to be false and groundless by statistics and past history. In 1891, the leper asylum of Fr. Muller was transferred from Jeppoo to its present site. The hospitals were opened in 1895. The deceased lepers and destitute patients dying in Fr. Muller's Hospitals, have been burried in this Cemetery all along. Also during the epidemics of cholera, small-pox and plague, the victims of these infectious diseases from the surrounding parts have been interred in the Valencia Cemetery, as it was considered objectionable to convey their remains to the Milagres Cemetery passing through the public streets of the town, though other victims of these diseases who died near and around the Milagres Church, notwithstanding the fear of infection, were given interment in the Milagres cemetery. A few burials of people around Valencia have, for the sake of convenience, taken place in the Valencia Cemetery, some free, others paying funeral expenses to the Milagres Church. Their number, during the last 42 years (1893—1935) is 95, at an average of 2·3 per year. In 1901 there were sixteen burials and

in 1903 eighteen burials, evidently owing to epidemics of cholera, small-pox or plague. During the last 19 months, since the Valencia parish was created, besides the lepers from Fr. Muller's Leper Asylum, and the destitute patients of Fr. Muller's Hospitals, there were 45 burials of the parishioners of Valencia. Out of these 6 Korgar converts from the Souterpeta colony and 9 others have been given free burials. The funerals of the lepers as well as of patients of Fr. Muller's Hospitals are accompanied by the Chaplain of the Institutions. Likewise, the Parish Priest of Valencia has accompanied the funeral corteges of the Korgar converts from their huts to the cemetery. No charge either for the grave or conveyance or for accompaniment by the Priest, has been made in any of these cases. The Korgar converts as well as other destitute people among old Catholics, have moreover received pecuniary help from the Vicar, towards grave-digger's fees.

Let it be understood that the poor and destitute of every parish are given free burials in their own respective parish cemeteries, if applied for. The poor and destitute dying in the Wenlock Hospital are buried in the Milagres Cemetery, since it is within the territorial jurisdiction of the Milagres Parish. The female patients who die in the Lady Goschen Hospital are interred by the Vicar of the Cathedral in the Jeppoo cemetery, since that hospital is given to the jurisdiction of the Cathedral. Who then are the large number of the poor who seek free burials at Valencia? That cemetery is open to all. Under certain conditions, e. g., members of distant parishes, dying in the vicinity of the Valencia cemetery may seek burials in that cemetery, free or on payment, which according to the conditions laid down in the Canon Law, are granted to them. Is it possible that paupers dying in distant parishes, when they can obtain burials free of charge in their own respective parishes, which are conveniently situated near their houses, should seek burials in the Valencia cemetery at great inconvenience? Even for the purposes of academical discussion, such a contingency cannot be imagined.

The main objections against the new Parish contained in the several petitions are briefly (1) the levying of burial fees in a portion of the cemetery (2) the allotting of plots for the burial of the parishioners of Valencia, Fr. Muller's Hospital

and Leper Asylum (3) the erection of the Mortuary Chape for the burial of the Secular clergy and (4) the temporary us of the Mortuary Chapel for parochial services.

The Collector, in his proceedings D. Dis. 3432-35 date 26-9-1935, with reference to the petition of Messrs. C. A Saldanha, N. A. Saldanha, A. B. Goveas, Felix Mascarenha and a few others, of whom the first four style themselves as th "Cemetery Committee" and "representatives of the Catholi Community" has passed orders para (2) "The G. O. handin over the land to the Municipality makes no stipulations abou free burials, and the contentions of the petitioners are not born out by Government records. The Collector therefore decline to investigate the question of levying burial charges".

The proceedings of the Collector are reproduced in toto i Appendix D.

Further, the Collector in his endorsement L. Dis. No 4903-35 dated 7-11-'35, on the petition dated 22-10-193 from the so-called Cemetery Committee, praying that th parochial services should be stopped in the Mortuary Chapel and that the Mortuary Chapel should be dismantled, has passe orders declining to interfere in the matter (Vide Appendix E).

The Municipal Council took up this question on the petition of the Cemetery Committee and disposed of it by their Resolution No. 32 dated 30-3-1936 (Vide Appendix F).

Subsequently, the Municipal Council re-opened the questio on receipt of a further petition, dated 19-5-'36 from the same persons and in connection with the subject, the Commissioner addressed a letter to the Bishop on 6-8-'36 (Vide Appendix G).

In reply to the Commissioner's letter the Bishop submitted his reply on 20-8-'36 (Vide Appendix H). Owing to certain questions raised at the meeting of the Council on 21-8-'36, the Bishop has again submitted on 29-8-'36 another letter, making his position more clear (Vide Appendix I).

It must be noted here that with regard to the levying of grave fees, vide para (2) of the Bishop's letter of 29-8-'36, the Dt. Municipalities Act 1920, section 280 authorises the Council to "charge rents and fees for the use of the burial ground maintained by them and to farm out the collection of such rents and fees." Also the Madras Corporation, which is the

premier Municipality in the Presidency, permits the priest of each denomination in the Corporation Cemetery, to levy grave fees and to dispose of the same at his discretion. In Catholic countries the grave fees are not appropriated by the priest but are utilised for the upkeep and improvement of the cemetery.

The report of the Commissioner of Madras regarding the administration of the Catholic Cemetery at Madras (Appendix J) and the letter of the Rt. Rev. Mgr. Ranzani, S. J., Administrator of the Catholic Diocese (Appendix K) confirm the right of the Bishop for the internal administration of the Valencia Cemetery.

From the above, an unbiassed and unprejudiced mind can judge, that the Bishop has not in any way contravened the conditions laid down by Government and the Municipal Council, the provisions in the District Municipalities' Act and bye-laws framed under them, as well as the rules of the Canon Law. It is impossible to believe or even imagine that any injury or hardship has been caused to any Roman Catholic of Mangalore.

APPENDIX A

From

The District Collector,
South Kanara.

To

The Secretary,
Board of Revenue, Madras.

The Municipal Council have, after communication with my predecessor applied for 2 pieces of ground for burial places for Hindus and Catholic Christians respectively. The site for the former is to the North of and beyond the old Municipal garden at Urwa; and the latter is separated by a road from the existing Basel Mission burial ground on a hill near the Carmelite Convent at Kankanady. Both are convenient situations and the closing of burial grounds in the town render the formation of new grounds necessary. The Council has arranged for the opening of a Mussulman burial ground in private land. The plots now applied for have been surveyed at the cost of the Council and the plan submitted.

			A.	G.
Hindu Burial ground is plot No.	1	on plan	7	75—10
Catholic ,,	2	,,	5	29—10

I have the honour to recommend that the Board will move Govt. to grant site to the Council free of assessments for the purpose.

Resolution dated 17-11-1887. M. 757

Submitted to Govt. with the Board's recommendation that the 2 plots of ground applied for be transferred to the Mangalore Municipality free of assessment.

(*Sd.*) R. S. BENSON,
Secretary

To the secretary to Government, Rev. Dept. with two plans.

Copy to Collector of South Kanara.

Order—dated 20th December 1887 No. 1174—Revnue.
Land Revenue No. 131 Sanctioned.
True extract

(*Sd.*) J. F. PRICE,
Secretary to Govt.

To the Commissioners of Land Revenue, with two plans.
To the Local and Municipal Department.

APPENDIX B

Proceedings of a General meeting of the Municipal Council of the Town of Mangalore held on the 29th February 1888.

4. G. O. No. 61 M. Misc./23. 1. 88 communicating sanction to the transfer to the Mangalore municipality of lands required for burial places to be used by Hindus and Roman Catholics.

The Bishop of Mangalore will be invited to state if he is willing to take over the management of the R. C. Cemetery subject to the conditions that he enclose it with a substantial wall and that the provisions of Act IV of 1884 be carried out to their full extent.

Sec. 238. Whoever in any Municipality buries or burns or causes or suffers to be buried, or burnt, any corpse in any unregistered and unlicensed vault, grave, burial or burning ground or other place, private or public, shall be liable to a fine not exceeding Rs. 100/-.

Sec. 239. The person having control of a burial ground or burning ground shall give information to any person appointed by the Municipal Council in that behalf of all burials and burnings which take place in or on such ground.

Sec. 241. Whoever

(i) buries, or causes to be buried, any corpse or part of a corpse whether dug, or constructed of masonry, or otherwise in such manner that the surface of the coffin, or the surface of the body where no coffin is used, is at a less depth than five feet from the surface of the ground, or

(ii) builds, or digs, or causes to be built or dug, any grave

in any burial ground at a less distance than two feet from the margin of any other existing grave; or

(iii) without the sanction in writing of the Municipal Council, or an order in writing of a Magistrate re-opens a grave already occupied; or

(iv) brings or conveys or causes to be brought or conveyed, a corpse, or part thereof, to any burial or burning ground, and does not cause the burial or burning of the same to commence within six hours after its arrival at such burning ground; or

(v) when burning or causing to be burnt, a corpse or part of a corpse in any burning ground, permits the same or any part thereof to remain without being completely reduced to ashes; or

(vi) permit the clothes, or other articles connected with the burning of such corpse to remain at or near such ground without being completely reduced to ashes; or

(vii) carries a corpse or part of the corpse through any street not decently covered; or

(viii) while carrying a corpse or part of a corpse within the Municipality leads the same in or near any street, for any purpose whatever; or

(ix) removes otherwise than in a closed receptacle any corpse or part of a corpse kept or used for the purpose of dissection, shall for each offence be liable to a fine not exceeding Rs. 50/-.

Sec. 242. All grave diggers and other attendants at a public burial or burning ground shall be licensed by the Municipal Council, and any person acting as such without such license shall be liable to a fine not exceeding Rs. 5/-. Such license may be withdrawn or cancelled at the discretion of the Municipal Council.

Proceedings of the General meeting of the Municipal Council of the town of Mangalore held on 11th April 1888.

Res. No. 10.

Letter dated the 15th March 1888 from the Bishop of Mangalore stating that he is willing to take over the place assigned for the Roman Catholic cemetery subject to the condition laid down in Resolution No. 4 dated the 26th February 1888.

Recorded. The Bishop's proposals are approved.

APPENDIX C

Extracts from the Proceedings of the Board of Administration of the Cathedral Board.

Proceedings of the Meeting held on 17th Aug. 1890.

Res. No. 5:—It is very essential that the piece of ground allowed by Government for the New Cemetery to be opened at Kankanady should be taken possession of, from the Municipal Authorities. Its boundaries clearly demarcated and steps taken to enclose the whole ground by a mud wall and otherwise adapt it for the purposes of a cemetery.

Proceedings of the Meeting held on 27th December, 1891.

Res. No. 4. The Rev. President further brings to the notice of the Board that the parishioners of Milagres desire that the new Cemetery at Kankanady which is now common to both the Milagres and Rosario Cathedral Parish, be given up for the exclusive use of the Milagres Parishioners, it being more conveniently situated to that Church than that of Rosario, and it being also desirable that the responsibility of maintaining by enclosing the ground and building a chapel in it for the performance of funeral services, a work which cause immediate attention, but has been allowed to lie over indefinitely for want of proper understanding between, and immediate action on the part of the two parishes be not divided, as at present. The Board resolves that before the rights of the Rosario Parishioners in the Cemetery in question can be surrendered they should be sure that another suitable place be available for them to be used as a Cemetery. They therefore resolve that prompt steps should be taken to obtain a suitable site in communication with the local Authorities and the Municipality of Mangalore.

Proceedings of the Meeting held on 19th June 1892.

Res. No. 10. The old question about the Kankanady Cemetery ground having again been moved by the Rev. President of Milagres with a view to a decision as to whether the Rosario Church is to give up or reserve its rights to a portion of the said ground, the board are of opinion that it is not advisable to give up all at once and their right to the said ground, before they secure any other ground at least equally good if not

›etter, in its stead, and resolve therefore that an application be ıade for the site opposite the existing Jeppoo Cemetery on the ther side of the road between the old and the new roads. Mr. J. S. Albuquerque was requested, and kindly consented to ee the ground and prepare a sketch of it, to enable the Board › put in an application before the Authorities concerned.

The Proceedings of the Meeting held on 14th Decr. 1902.

Res. No. 4 & 5. Mr. Alvares has produced the copy f the order of the Collector handing over to the Church the round called Bishop's quarry dated . . . . Read the letter ated 26th Nov. 1902 from the Rev. Vicar of the Milagres Church asking for a meeting of the Vicars and of the two hurches at the Bishop's residence re. the burial place at Kankanady, which those of Milagres desire to have wholly ›r themselves. Resolved that the place be inspected by the Vicars with Messrs. D'mello, J. S. Albuquerque and S. Alvares and then a day appointed for the meeting at the Bishop's residence.

Proceedings of the Meeting held on 11th Jan. 1903.

Res. No. 4. Re. the Kankanady Cemetery the commission appointed by Res. No. 5 of the Meeting of the 14th December 1902 states that the Cathedral requires its Kankanady Cemetery since the Jeppoo Cemetery even with the addition of the Bishop's quarry is too small for our purposes and it would be difficult to extend the latter.

Extracts from the Proceedings of the Board of Administration, Milagres Church.

10—11—1902

Improvement of the Kankanady Cemetery.

The Board is of opinion that the ground is too small to admit its use jointly by the two extensive parishes as the Cathedral and Milagres, and considering the necessity that will arise to raise two separate Mortuary Chapels for the two parishes in the proposed Cemetery, the question as to which of the two parishes shall have the exclusive use of the cemetery is fit to be submitted for the arbitration and decision of H. L. the Bishop.

30—8—1903

To consider once for all whether we should share with the Cathedral, the Kankanady Cemetery or it is expedient to apply to Government for a site for a new Cemetery.

As the present burial ground attached to the Milagres Church is almost filled up, it is resolved that an application be made to the Municipality for a suitable place for burial ground of about 2 acres or more in extent.

22—7—192_

To put up a wall around Kankanady Cemetery.

Sanctioned.

APPENDIX D

D. Dis. 3432—35.

Proceedings of the Collector of South Kanara dated 25th September 1935.

E. M. Gawne, Esq., I. C. S.

Burial ground—Roman Catholics—Mangalore Taluk—Kankanady village—R. S. No. 11/A2A—levying of fees and construction of a Chapel—representation from the Roman Catholics of Mangalore—orders passed.

Ref. (1) Petition dated 30—7—'35 from some of the Roman Cotholic residents of Mangalore
(2) Mangalore Rev. Divl. Officer's L. Dis. 3254/35 dated 8—9—'35
(3) Petition dated 20—8—'35 from Mr. M. S. Sreshta, M. L. C., C. C. S.
(4) Mangalore Rev. Divl. Officer's N. Dis. 3864/35/Bl dated 8—9—'35.

1. In their order No. 1174 dated 20th December 1887, the Government sanctioned the transfer of R. S. No. 11/A2A of Kankanady village, measuring 5 acres and odd to the Mangalore Municipality free of assessment for use as a burial ground to Roman Catholics. Some of the Roman Catholics of Kankanady village have represented to the Collector, that under

the orders of the Bishop, fees are being levied for the burials of the dead in that plot and that a mortuary chapel has been constructed on the plot and converted into a permanent Parish Church. They further represent that under orders of the Bishop, the resident Parish Priest is arranging to extend the mortuary Chapel into a Parish Church and to construct on the buria ground a parochial house for the Parish Priest. The petitioners protest against the above action of the Bishop.

2. The G. O. handing over the land to the Municipality makes no stipulations about free burials, and the contentions of the petitioners about free burials are not borne out by Government records. The Collector, therefore, declines to investigate the question of levying burial charges.

3. But if the mortuary Chapel is developed into a Parish Church, then there is a breach of conditions. Much more, if any priest's residence is erected there. The land was given free of assessment for a specific purpose. The Bishop cannot vary the use of the land without reference to Government.

4. The Collector has no objection to the cart-track on the Northern side being subdivided if the Rev. Divl. Officer thinks it advisable.

5. In the circumstances, the Collector cannot comply with Mr. Sreshta's request to hand over a part of the land for the new "Valencia" Church.

(By order) (*Sd.*) R. SHIVA RAO
26—9—'35
Huzur Sheristedar.

APPENDIX E

Petition: Collector's L. Dis. 4903/35

Subject matter. Petitioners report that daily Mass is said in the Mortuary Chapel and Parochial services held on Sundays. Request that they may be stopped and chapel dismantled. Order—Collector does not interfere.

APPENDIX F

Extract from the proceedings of the Mangalore Municipal Council, dated the 30th March 1936.

32. Read proceedings of the Collector of South Kanara, D. Dis. 3432/35, dated the 25th September 1935 passing orders in respect of management of the ground R. S. No. 11/A2A of Kankanady village.

In view of His Lordship the Bishop's letter to say that the Mortuary Chapel has not been converted into a Parish Church, no action is necessary.

APPENDIX G

From

M. R. Ry. C. K. Karunakara Menon, Avl., B. A., B. L.
Commissioner, Mangalore Municipality.

To

The Lord Bishop of Mangalore,
Mangalore.

Ref: C. 2505/D 2-36.

Burial Ground—Roman Catholic—Mangalore Taluk—Kankanady Village—R. S. No. 11/A2A—Further information requested.

In order to decide the appeal petition of Mr. N. C. A. Saldanha and others, dated the 19th May 1936 and a copy of which was sent to you on 22nd June 1936 the following information is considered necessary:—

1. Whether the Mortuary Chapel in R. S. No. 11/A2A is being used a Parish Church, or is converted into one, either permanently or temporarily and from which date it is being used as a Parish Church.

2. It was stated at the meeting of the Municipal Council that fees are charged for burial, in the ground in question, to meet the cost of the upkeep of the same. If it is a fact, I request you will please direct the concerned to furnish to the Municipal Council all accounts or such of them as exist pertaining to

the collection of the fees for burial in this ground time to time. The actual accounts are necessary rather than any copies or extracts. The nature and quantum of the fees charged, the various particulars of disbursement, in the past and at present and when actually the practice of charging fees began will be important matters for the consideration of the council when the subject comes up at the next meeting of the council about the 21st August 1936. I therefore request you will please furnish the above as early as is convenient.

Your obedient servant,
C. R. KARUNAKARA MENON
Commissioner, M. M.

APPENDIX H

From

The Rt. Rev. Dr. V. R. Fernandes,
Bishop of Mangalore.

To

The Commissioner,
Mangalore Municipality, Mangalore.

Sir,

With reference to your letter No. Ref. C. 2505/D-2-36 dated the 6th August, I beg to say that since the creation of the Valencia Parish on 3rd March 1935, the Mortuary Chapel, previously constructed, besides being used for funeral services of all those buried in the Cemetery, is also used for parochial services, temporarily, pending construction of a new Parish Church. The holding of such parochial services for the benefit and convenience of the parishioners, numbering over 2000, does not in the least interfere with the user of the Mortuary Chapel and the cemetery as a burial ground.

A small extent of 44 cents has been allotted for burials of the paying section of the Valencia Parish, as well as for burials for the Catholics of the whole of Mangalore, seeking burial there on payment. This does not take away the right

of the poor Catholics of Valencia or of the whole town of Mangalore for claiming free burial in the cemetery.

I further beg to say that after the cemetery was made over by a resolution of the Municipal Council No. 4 dated 29-2-1888 to my predecessor in office, its internal administration and management is vested in the Bishop, and the Bishop is bound to administer it under the Canon Law and in conformity with the practice prevailing in the parish churches of Mangalore and the Diocese. The receipt of grave fees in proper cases and their disbursements, are acts of internal administration. Accordingly I regret my inability to furnish you with the accounts called for.

I may add that the conditions under which the cemetery was made over by the Council, have been faithfully observed and the petitioners therefore have no real grievance.

Yours faithfully,

(Sd.) V. R. FERNANDES,
Bishop of Mangalore.

APPENDIX I

From

The Rt. Rev. Dr. V. R. Fernandes,
Bishop of Mangalore.

To

The Commissioner,
Mangalore Municipality,
Mangalore.

Sir,

In continuation of my letter dated 20—8—'36 in reply to your letter No. Ref. C. 2505/D 2—36, dated the 6th August, I would like to write further on the subject as follows:

1. Since the creation of the Valencia Parish on 3rd March 1935, the Mortuary Chapel, previously constructed, besides being used for actual burial services of those interred

in the cemetery, clergy as well as laity, and for services for the dead subsequently on the 3rd, 7th, 30th and anniversary days, is also used for parochial services, temporarily, pending construction of a new parish church. The holding of such parochial services for the benefit and convenience of the parishioners, numbering over 2000, does not in the least interfere with the user of the Mortuary Chapel and the cemetery as a burial ground. Moreover the Collector in his endorsement L. Dis. No. 4903/35 dated 7—11—'35 on the petition, dated 22—10—'35 from C. A. Saldanha and 4 others praying that parochial services may be stopped in the Mortuary Chapel, has passed orders declining to interfere in the matter.

2. The G. O. handing over the land to the Municipality makes no stipulations about free burials, and the contentions of the petitioners are not borne out by Government records. (Vide order passed in para 2 of Proceedings of the Collector of South Kanara; D. Dis. 3432—35, dated 25th sept. 1935). The resolution of the Municipal Council No. 4, dated 29—2—1888, transferring the burial ground to my predecessors in office, likewise does not make any stipulations regarding free burials. Neither are there any provisions regarding free burials in the Madras District Municipalities Act and the bye-laws framed thereunder. The Municipality as per G. O. No. 2048 M, dated 29th Nov. 1917 has to bear the cost of burials of paupers and destitute persons who die in the town in a Hospital or otherwise, and pays at the rate of Rs. 2 per each such burial. Free sites for such burials will be provided. Further under Canon Law (Canon No. 1235) decent burials have to be given to the poor free of charge.

3. The receipt of grave fees and their disbursements, as well as the allotment of different plots of the cemetery for the burial of the several Parishes and Catholic Institutions of Mangalore, are acts of internal administration and management, which is vested in the Bishop since 1888 and which the Bishop has exercised all along without any interference on the part of the Council. This is the reason why I regret my inability to furnish the accounts called for.

4. The administration of the burial ground is conducted by the Bishop in accordance with the Canon Law, which is binding on all Catholics. I may add that the conditions under which the cemetery was made over by the Council, have been

faithfully observed and the petitioners therefore have no real grievance to call for the intervention of the Municipal Council.

Yours faithfully,

V. R. FERNANDES

Bishop of Mangalore

APPENDIX J

CORPORATION OF MADRAS HEALTH DEPARTMENT

Ripon Buildings, Park Town, P. O. Madras

Dated 30th July 1936.

From

Dr. C. S. Govinda Pillai,

M. B. Ch. B., L. R. C. P. & S., D. P. H. (Edin.),

Health Officer, Corporation of Madras.

To

The Commissioner,

Municipal Office, Mangalore.

Sir,

Reference:—Your letter Ref. C. No. 2505/D.2/36, dated the 22nd July 1936, to the Commissioner, Corporation of Madras, forwarded to this department for disposal, I write to furnish the information called for therein as hereunder:—

1. No separate burial ground for Roman Catholics is provided by the Corporation. Burial Grounds are provided in general under Section 320 of the Madras City Municipal Act IV of 1919 and a separate burial ground for Christians of all denominations which is called a General Cemetery. Plots are allocated to each denomination.

2. These are controlled and managed by the Priests of the respective sect of Christians in the matter of burials levy of fees and appointment of grave diggers or gardeners to keep the ground in order and clean.

3. Fee for burial is charged by the Priest concerned which is appropriated for paying the grave diggers and for maintenance of garden etc.

4. The fee is levied at the discretion of the Priest in charge and is used for the above purpose.

5. Left to the discretion of the Priest in charge. *(This is reply to query, whether free burials are allowed or whether payment of charges is compulsory even in the case of poor people and what the fee levied is).*

6. A copy of the by-laws framed under Section 349 (22) (a) of the Act is enclosed.

7. All burial grounds in the city whether public or private and though managed by private agencies are vested in the Corporation under Section, 319, 320, 324, 326 and by-laws under Section 349 (22) (a) of the Act.

All general Christian burial grounds under the control of the Corporation or Government are, as a rule governed by the ecclesiastical rules, copy of which can be had from any local clergy of the order of the Church of England or on application to the Archdeacon of Madras.

(*Sd.*) C. S. GOVINDA PILLAI,
Health Officer.

(True Copy)

APPENDIX K

From

The Right Rev. Monsignor B. M. Ranzani, S. J.
Administrator Apostolic of Calicut.

To

Dr. L. P. Fernandes, B. A., L. M. & S.,
Father Muller's Hospital,
Mangalore.

Dear Doctor,

With reference to your enquiry regarding the Roman Catholic Cemetery at Calicut I am giving you the following information:

(1) The cemetery about one acre in extent, was handed over to us by the Calicut Municipality about 40 years ago, free of assessment for burial of Catholics.

(2) It is enclosed by a stone wall at the cost of the Municipality.

(3) The poor and destitute who die in the Hospitals or in the Poor House are given free burial, but the Municipality pays us Rs. 2/- for each such burial.

Also the poor and destitute who die in their own houses are given free burial at our own cost.

(4) Those that are able to pay are charged fees by us varying from Rs. 2 to Rs. 50, according to the class in which they elect to be buried.

(5) The Municipality does not interfere with the internal management of the burial ground.

Yours sincerely,

Camp, Mangalore,
4th Aug. 1936.

B. M. RANZANI, S. J.

Administrator Apostolic of Calicut.

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MANGALORE, S. K.

Father Muller's Charitable Institutions,

KANKANADY

On the 23rd September at 5-30 P. M. Sir Charles Souter, K. C. I. E., C. S. I., I. C. S., the Revenue Member to the Government of Madras, laid the Foundation Stone of the extension of the Leper Asylum in Father Muller's Institutions. The extension is financed by the King George V Silver Jubilee Memorial Fund. The function was well attended by a large number (over 500) of the elite of Mangalore, officials and non-officials. The Catholic Clergy were well represented.

The Hon'ble Member, accompanied by the Collector, Khan Bahadur M. Humayun Saheb Bahadur, was received by H. L. the Bishop, the Rev. Director and the Staff of the Institutions and was conducted to the basement of the extension buildings. The beautiful scenery all round lent a charm to the function.

The first item on the programme was a Welcome Song (Al Pastor=Mozart) which was sung in 4 voices by the Leper Patients and members of the Staff, accompanied by an orchestra. The music was conducted by Dr. L. P. Fernandes, who had trained this combined choir at great trouble. The song, rendered mostly by the patients, was much appreciated by all.

Next an address was read by Dr. A. F. Coelho, M. B., B. S., the Medical Officer in charge of the Leper Asylum. In the address the Hon'ble Member was accorded a hearty welcome and was thanked for kindly accepting the invitation to lay the Foundation Stone. Grateful reference was made to the great sympathy and solicitude which he had shown towards the poor lepers while he was Collector of South Kanara. The Provincial Government and its representatives the Collectors had always treated the Leper Asylum with special favour. In particular Mr. E. M Gawne, moving in consonance with the general enthusiasm for Leper Relief throughout the Presidency exerted himself so much in furthering this noble work, not only in our Leper Asylum and Out-patients' Leprosy Clinic but throughout the District, that it might be said in a way that he made Leper Relief work his hobby. To his personal interest in Leper Relief work is due, in a great measure, that the extension of the Leper Asylum was adopted as the proper objective for the King Emperor's Jubilee Fund in this District.

Then followed a short history of the Leper Asylum from its inception. Originally the Asylum was at Jeppoo. For the purpose of better treatment Father Muller brought it over to its present site at Kankanady in 1890. He treated the lepers successfully with Homœopathic medicines. After him, his disciple Dr. L. P. Fernandes, who has been the chief Medical Officer of Father Muller's Institutions during the last 34 years, continued the treatment. Long before specific treatment of Leprosy was started in Government Leper Asylums Dr. Fernandes made use of injections of preparations of Chaulmoogra Oil and of Collossol Antimony with satisfactory results. In 1925, Rev. Fr. M. Lunazzi, S. J., the then Director, sent Dr. A. F. Coelho, M. B., B. S., to the School of Tropical Medicine at Calcutta for a special course in Leprosy. Since that time Dr. Coelho has been in charge of this Asylum and of the Out-patients' Clinic attached to it. His duties consist of attending to the general health and comfort of the patients, of performing such operations on them as may from time to time be required and injecting the specific for Leprosy, at present recommended by the Tropical School of Calcutta, viz., sterilized Chaulmoogra Oil. Dr. Coelho, who is also in charge of the Out-patients' Leprosy Clinic in the Government Headquarters Hospital, is a member of the District Leprosy Council, of which the Collector is the President. Dr. Coelho has all along taken a keen interest in his work, in spite of the repulsive nature of the disease and of the constant fear of infection, seeking his reward and protection only from Heaven.

Rev. Fr. Reginald Pinto, the present Director of our Institutions, was for several years the Parish Priest of Shirwa, which is known as the hot bed of Leprosy in this District, so much so that the special attention of the District Leprosy Council is devoted to it. It is needless to say that his experience of this sad disease prevailing among his old parishioners is a great asset to our leper patients. His sympathy and love for the poor leper patients is unlimited.

When Father Muller started the Leper Asylum in 1890, the number of beds was 36. Now the accommodation is for 76 patients. When the Jubilee extension is completed this

number will be raised to 92. Considering that it is estimated that there are over 3000 lepers in South Kanara, this provision is absolutely inadequate.

The actual total expenditure of 1935 for maintenance was Rs. 17,090. The capitation grant of Rs. 6—4—0 per patient per month received from Government amounted to Rs. 5,962. The annual Municipal grant is Rs. 300. The St. Francis' Leper Guild, London, donated Rs. 131—4—6 (£ 10); private donations amounted to Rs. 245—11—6. *The total receipts therefore in 1935 were Rs. 6,639 leaving a deficit of Rs. 10,451 which was met from our funds.*

In respect of the present Jubilee Extension Rs. 3,660—8—0 has been received from the Silver Jubilee Committee, this amount being a moiety of the total collections made in the District for the King George V Silver Jubilee Memorial Fund. To this amount must be added Rs. 657—8—6 (£ 50) received from the St. Francis' Leper Guild, London, and Rs. 65 donation from the public for the same purpose, as well as Rs. 100 from Mr. J. A. L. Lobo, Proprietor of Coronation Tile Works in memory of the late Mr. B. F. Saldanha, making the *total receipts Rs. 4,483—0—6. The estimated cost of the extension is Rs. 6,485. The deficit of Rs. 2001—15—6 will have to be met from our funds.*

The Asylum is open to all castes and creeds and from the time of Father Muller patients have been admitted irrespective of caste and creed.

Government have shown their appreciation of the work of the Institutions by awarding the Kaiser-i-Hind Medals to its Founder, the late Rev. Father Augustus Muller, S. J., in 1907, and subsequently to Dr. L. P. Fernandes in 1927 and Rev. Fr. M. Lunazzi, S. J. in 1934. The King George V Silver Jubilee Medals were also awarded to Dr. L. P. Fernandes and Dr. A. F. Coelho.

Gratitude was expressed to the Hon'ble Revenue Member for his kindness in presiding at the function. In union with all the guests assembled further rise in life and prosperity to him was heartily wished. Thanks were also accorded to the Collector ..... Bahadur M. Humayun Saheb Bahadur for his having brought about the function to be presided over by the Hon'ble Revenue Member when it was time to lay the Foundation Stone. The guests were thanked for having kindly responded to the invitation.

After the address was presented to the Hon'ble Revenue Member by Dr Coelho, he was garlanded by the Rev. Director and presented with a bouquet by Dr. L. P. Fernandes. H. L. the Bishop then formally requested the Hon'ble Member to lay the Foundation Stone. After this ceremony the Hon'ble Member delivered his speech which was highly appreciated by all the guests. The Hon'ble Member said that he had come to Mangalore for a special purpose and that he had to devote most of his time to that work. He regretted that owing to his short stay in Mangalore he had to disappoint many of his old friends whom he wished to see and who, he was sure, would have liked to meet him. He was glad he had come again to his old District, which is considered the gem of the Madras Presidency, the beauty of which charms everyone that visits it. He was pleased with the reference made to the special interest taken by Mr. E. M. Gawne in Leper Relief work and in particular in Father Muller's Asylum. From his personal knowledge of Mr. Gawne he fully endorsed all that was said about him in the address. He was glad also to meet his old friend Dr. Fernandes, who has been in charge of the Institution almost as long as he himself has been in India. He believed that it was due to Dr. Fernandes more than to anyone else that this Institution occupies the position it holds today. He was sure that everybody in Mangalore and even in South Kanara owed him a very deep debt of gratitude. In conclusion he thanked H. L. the Bishop for the honour done to him by asking him to lay the Foundation Stone and wished the Institution would still grow and continue to do useful work.

Group photos were then taken and the function terminated with "God save the King" which was well rendered by the Asylum Choir.

Fr. Muller's Hospital,
Mangalore.

(Now in Madras.)
24th Nov. 1936.

From

L.P. Fernandes, B.A., LM&S.
Chief Medical Officer, Fr. Muller's Hospital, Manga

Dear Sir,

I thank you sincerely for your kindness in granting me a long interview. I regret, not being a lawyer I was not able to answer satisfactorily your searching questions.

I take the liberty to submit to you some more information regarding (1) the resumption of the Valencia Cemetery and alienation of one acre of land for the erection of a Parish Church, (2) regarding the Hoden Kamp Church suit.

With regard to the Jeppoo Cemetery suit, I am not competent to meet your questions. When I return to Mangalore, I shall study the case better and submit my answers.

In consideration of the loyalty of the Roman Catholics of South Kanara and in consideration of the public nature of our requests, I trust you will deal with us favour

Yours respectfully,
L P F

Valencia Cemetery and Parish Church

The Municipality handed over the burial ground to the Bishop of Mangalore in 1888. Since then the Cemetery has been managed by the Bishop, walled round at a cost of about Rs. 1500. The municipality has not exercised any sort of control; the land is not included in the inventory of the immoveable properties of the Municipality; it is not registered by the Municipality and no bye-laws have been made for its management. According to the Standing orders of the Board, as the Municipality has failed to exercise any control over the Cemetery for the Statutory period of 30 years, the control vests with Government. On this ground we pray that Govt. may resume the land.

On the 1st March 1935, the Bishop formed a new Parish, called Valencia, with a population of over 2000. The need for the formation of this parish, the convenience afforded by it to 2000 people who had to attend Divine Service at a distance, is shewn in the little brochure on "Valencia Parish and Valencia Cemetery", of which I submit a copy herewith. A perusal of this short brochure will throw much light on the whole subject.

The Bishop in good faith ordered that the services of the new Parish should be performed in the Rosary Chapel of the Priests. A few discontented Catholics, who were opposed to the formation of the new Parish,

on ulterior grounds created much disturbance, appealed to Rome and complained to the Collector & to the Municipality. The Municipal Council on 7th Sept. 1936 resolved not to interfere with the Parish services temporarily held in the Mortuary Chapel. The Collector, Mr. Lawrie, also did not order the Bishop to stop the said services, but ruled that the Chapel should not be developed into a Parish Church. This was the explanation of the Collector's Order as understood by the Municipal Council. Otherwise the services would have been stopped.

I beg to say that the Honble Revenue Member, Sir. Charles Souter, at the deputation in Mangalore, said in connection with the holding of Parochial services in Mortuary Chapel, that there would be no objection.

The services consist of the Holy Sacrifice of the Mass on Sundays & week days. The same sacrifice is offered for the dead on the 3rd, 7th, 30th day, Anniversary. Practically the services are similar and even in the daily Mass, prayers are offered for the repose of the souls of the dead. So that even the Parochial Services being for the dead, as it is customary at all our services, to pray for the dead, owing to our belief in Purgatory.

Under these conditions, Parochial services consisting of the Mass, prayers, etc. cannot be considered alien or injurious to a Mortuary Chapel. If any additions were made to the existing building

however small, such addition will contravene the conditions laid down by Govt.

I understand that neither the Collector nor the Municipality have power to make or allow the slightest alterations in the conditions. But Govt., who gave the land, has the power to sanction variations of the terms. We pray that the Govt may condone the technical fault in regard to the holding of Parochial services in the Norbury Chapel and grant us permission for the future.

The Valencia Parish was constituted in March 1935. For over 19 months the Parish has functioned. It would be a great hardship now to abolish the Parish by stopping services. There is no other place at present where the services could be held. The stopping of services would inconvenience over 2000 people and entail the dissolution of the Parish.

We pray therefore that Govt may be gracious enough to permit the said services being held in the Norbury Chapel temporarily and to alienate one acre of ground for the new Parish Church.

L. P. Fernandes.

Valencia Parish

and

Valencia Cemetery

PREFACE

At a meeting of several leading members of the Catholic Community held on 28th August, at which I presided, it was resolved that this brochure should be published for the enlightenment of our Community and the public. Rev. Fr. M. Menezes, the Vicar of Valencia, has taken much trouble to provide statistics, copies of exhibits and other material. I trust that this brochure will be read with interest.

P. D'Souza, B. A., B. L.

1st September 1936.

VALENCIA PARISH AND VALENCIA CEMETERY

A new parish was created on 1—3—1935 by a Decree of His Lordship the Bishop, formed out of the distant parts of the old parishes of the Cathedral and Milagres. It is dedicated to St. Vincent Ferrer, and therefore named after his birthplace, Valencia.

Reasons for the creation of this new parish.

(1) Convenience of a large number of families (over 2000 persons) for attending Divine Service on Sundays and other days of obligation, as well as every day of the week, also other religious services, for frequent reception of Sacraments, for greater convenience for funerals; (2) for more efficient administration by the Parish Priest, resulting in closer touch with the parishioners for their improvement in various directions; (3) to prevent people of the locality from attending Divine Service on Sundays and days of obligation, in the Carmelite Convent Chapel, where sermon is not preached at Mass; and (4) to diminish excessive crowding in the Jeppoo Seminary Chapel for Divine Service on Sundays and other days of obligation.

It is evident from the above that the creation of the new parish of Valencia, has been a blessing for a very large number of Catholics and for increasing the zeal for spirituality among them. Moreover, Canon Law provides for the creation of new parishes. Canon 1427 reads thus:—"The Ordinaries can, for a just canonical cause, divide any parishes, also against the will of the Rectors and without the consent of the people, by erecting a perpetual vicariate or a new parish, or by dismembering the same, and giving part to another already established parish."

"There is only one canonical reason for dividing or dismembering a parish, viz., either too great a difficulty for the people to go to the parish Church or too numerous a congregation whose spiritual welfare cannot be taken care of, by the appointment of assistants to the pastor."

From the time of the regime of the late Bishop Perini, of beloved memory, up to the present time, the Catholics of the locality have been continually praying for the formation of this

new parish. The same Catholics are now extremely grateful to our zealous and sympathetic Bishop for granting their prayer.

About 70 families of the old Milagres Parish included within the area demarcated for the new Valencia Parish by Decree of the Bishop, objected to their separation from the Milagres Parish and to their inclusion in Valencia, on grounds of sentiment, viz., their great attachment to, and love for their old parish, and the burial of their ancestors(?) in the cemetery at Milagres. At the present time, excepting 16 families, all the rest have submitted to the Decree of the Bishop and have had their houses blessed by the Parish Priest of Valencia, at Easter time. Those that refused to submit to the Decree of the Bishop, having failed to obtain permission from the Bishop to be retained in the old parish of Milagres, had appealed to Rome. In doing so, they exercised their legitimate right, for "The gates of Rome are open to all Catholics." The decision of Rome, finally rejecting their appeal, has been communicated directly from Rome to the appellants. No other alternative is now open to the appellants than submission to the Decree of the Bishop. "Rome has spoken, the cause is finished."

Though the Valencia Parish has been constituted by an irrevocable Decree on 1-3-1935, the Parish Church is still to be erected. Temporarily, pending the construction of the parish church, parochial services are held in the mortuary chapel, intended for the burial of the secular clergy, within the Valencia Cemetery.

The said Mortuary Chapel, which has been financed by Rev. Fr. Vincent Rebello, a generous retired old secular priest, was completed early in 1935 and its inauguration took place on 10—2—1935. Immediately after the inauguration service, a large group photo was taken, of the Bishop, the clergy and the laity who had attended the inauguration ceremony. At this time, the Valencia Parish had not been constituted. It was constituted by the Decree of the Bishop, given on 1—3—1935.

Every attempt is being made for providing a Parish Church. His Lordship the Bishop moved the Collector to assign a small portion in the centre and more elevated part of the cemetery for the location of the Parish Church. Though this petition has not been granted, let us hope that in the near

future, with God's help, this great and pressing need will be provided for.

The history of the Valencia Cemetery is very interesting. On 20—12—1887, Government sanctioned the transfer to the Mangalore Municipality, free of assessment, of the Barifalke Cemetery, now called Valencia Cemetery, measuring 6·06 acres for burials of Roman Catholic Christians (Vide Appendix A).

The Municipal Council in its Resolution No. 4 dated 29—2—1888, asked the Bishop of Mangalore whether he was willing to take over the management of this Roman Catholic Cemetery subject to the conditions (1) that he encloses it with a substantial wall and (2) that the provisions of Act IV of 1884 are carried out to their full extent. The then Bishop having agreed to these two conditions, the Council in its Resolution No. 10 dated 11—4—1888 approved the proposal of the transfer of the site to the Bishop. The two Resolutions of the Municipal Council mentioned above, and the conditions laid down in the burial and burning ground sections of the above Act are given in appendix B.

It must be carefully noted that both in the G. O. sanctioning the transfer of the land for the burial of Roman Catholic Christians, and in the Resolution of the Council transferring the cemetery to the Bishop, there are absolutely no stipulations about free burials; neither is it stated anywhere that the cemetery is intended for the use of the whole town of Mangalore. It was made over to the Bishop, and it is his right to make use of it according to the requirements of the town. If other conditions had been laid down by the Government or the Municipality, it was then open to the Bishop to reject the offer of the Cemetery.

As stated above, the Valencia Cemetery was made over to the Bishop on 11—4—1888. It was then entrusted by the Bishop to the administration of the Cathedral Board, which is proved by the Resolutions both of the Cathedral Board as well as of the Milagres Board (Vide appendix C).

Soon after the transfer of the land (6 acres) to the Bishop, it was enclosed with a mud wall of the old pattern with a broad base, by the Cathedral Board at a cost of over Rs. 500.

about 2/5 of the total length. The Milagres Board was also permitted by the Cathedral Board to make use of the Cemetery, and in 1923, the enclosing wall was partly repaired and partly renewed by the Milagres Board at a cost of about Rs. 575/-. The cross standing on a stone masonry pedestal was erected by Mr. Xavier Sequeira, a Gurkar of the Cathedral Parish, at his own expense about the year 1928. The statement that the Cemetery was applied for, and granted by Government to the people of Milagres, through their parish priest, for free burials is not supported by facts. On the creation of the Valencia Parish, the said cemetery falling within the territorial jurisdiction of the Valencia parish, has been placed under the control of the Parish Priest of Valencia. 44 cents out of this have been allotted for the use of the paying class, and portions have been set apart for lepers and other patients dying in Fr. Muller's Institutions, as well as for free burials of others who apply for them.

The statements of the objectors, that this burial ground has been utilized for burials of only poor Catholics of the whole town from the time of the grant in 1888 and that it should be reserved as such for the sole use of the poor, are proved to be false and groundless by statistics and past history. In 1891, the leper asylum of Fr. Muller was transferred from Jeppoo to its present site. The hospitals were opened in 1895. The deceased lepers and destitute patients dying in Fr. Muller's Hospitals, have been burried in this Cemetery all along. Also during the epidemics of cholera, small-pox and plague, the victims of these infectious diseases from the surrounding parts have been interred in the Valencia Cemetery, as it was considered objectionable to convey their remains to the Milagres Cemetery passing through the public streets of the town, though other victims of these diseases who died near and around the Milagres Church, notwithstanding the fear of infection, were given interment in the Milagres cemetery. A few burials of people around Valencia have, for the sake of convenience, taken place in the Valencia Cemetery, some free, others paying funeral expenses to the Milagres Church. Their number, during the last 42 years (1893—1935) is 95, at an average of 2·3 per year. In 1901 there were sixteen burials and

in 1903 eighteen burials, evidently owing to epidemics of cholera, small-pox or plague. During the last 19 months, since the Valencia parish was created, besides the lepers from Fr. Muller's Leper Asylum, and the destitute patients of Fr. Muller's Hospitals, there were 45 burials of the parishioners of Valencia. Out of these 6 Korgar converts from the Souterpeta colony and 9 others have been given free burials. The funerals of the lepers as well as of patients of Fr. Muller's Hospitals are accompanied by the Chaplain of the Institutions. Likewise, the Parish Priest of Valencia has accompanied the funeral corteges of the Korgar converts from their huts to the cemetery. No charge either for the grave or conveyance or for accompaniment by the Priest, has been made in any of these cases. The Korgar converts as well as other destitute people among old Catholics, have moreover received pecuniary help from the Vicar, towards grave-digger's fees.

Let it be understood that the poor and destitute of every parish are given free burials in their own respective parish cemeteries, if applied for. The poor and destitute dying in the Wenlock Hospital are buried in the Milagres Cemetery, since it is within the territorial jurisdiction of the Milagres Parish. The female patients who die in the Lady Goschen Hospital are interred by the Vicar of the Cathedral in the Jeppoo cemetery, since that hospital is given to the jurisdiction of the Cathedral. Who then are the large number of the poor who seek free burials at Valencia? That cemetery is open to all. Under certain conditions, e. g., members of distant parishes, dying in the vicinity of the Valencia cemetery may seek burials in that cemetery, free or on payment, which according to the conditions laid down in the Canon Law, are granted to them. Is it possible that paupers dying in distant parishes, when they can obtain burials free of charge in their own respective parishes, which are conveniently situated near their houses, should seek burials in the Valencia cemetery at great inconvenience? Even for the purposes of academical discussion, such a contingency cannot be imagined.

The main objections against the new Parish contained in the several petitions are briefly (1) the levying of burial fees in a portion of the cemetery (2) the allotting of plots for the burial of the parishioners of Valencia, Fr. Muller's Hospital

and Leper Asylum (3) the erection of the Mortuary Chapel for the burial of the Secular clergy and (4) the temporary use of the Mortuary Chapel for parochial services.

The Collector, in his proceedings D. Dis. 3432-35 dated 26-9-1935, with reference to the petition of Messrs. C. A. Saldanha, N. A. Saldanha, A. B. Goveas, Felix Mascarenhas and a few others, of whom the first four style themselves as the "Cemetery Committee" and "representatives of the Catholic Community" has passed orders para (2) "The G. O. handing over the land to the Municipality makes no stipulations about free burials, and the contentions of the petitioners are not borne out by Government records. The Collector therefore declines to investigate the question of levying burial charges".

The proceedings of the Collector are reproduced in toto in Appendix D.

Further, the Collector in his endorsement L. Dis. No. 4903-35 dated 7-11-'35, on the petition dated 22-10-1935 from the so-called Cemetery Committee, praying that the parochial services should be stopped in the Mortuary Chapel, and that the Mortuary Chapel should be dismantled, has passed orders declining to interfere in the matter (Vide Appendix E).

The Municipal Council took up this question on the petition of the Cemetery Committee and disposed of it by their Resolution No. 32 dated 30-3-1936 (Vide Appendix F).

Subsequently, the Municipal Council re-opened the question on receipt of a further petition, dated 19-5-'36 from the same persons and in connection with the subject, the Commissioner addressed a letter to the Bishop on 6-8-'36 (Vide Appendix G).

In reply to the Commissioner's letter the Bishop submitted his reply on 20-8-'36 (Vide Appendix H). Owing to certain questions raised at the meeting of the Council on 21-8-'36, the Bishop has again submitted on 29-8-'36 another letter, making his position more clear (Vide Appendix I).

It must be noted here that with regard to the levying of grave fees, vide para (2) of the Bishop's letter of 29-8-'36, the Dt. Municipalities Act 1920, section 280 authorises the Council to "charge rents and fees for the use of the burial ground maintained by them and to farm out the collection of such rents and fees." Also the Madras Corporati

premier Municipality in the Presidency, permits the priest of each denomination in the Corporation Cemetery, to levy grave fees and to dispose of the same at his discretion. In Catholic countries the grave fees are not appropriated by the priest but are utilised for the upkeep and improvement of the cemetery.

The report of the Commissioner of Madras regarding the administration of the Catholic Cemetery at Madras (Appendix J) and the letter of the Rt. Rev. Mgr. Ranzani, S. J., Administrator of the Catholic Diocese (Appendix K) confirm the right of the Bishop for the internal administration of the Valencia Cemetery.

From the above, an unbiassed and unprejudiced mind can judge, that the Bishop has not in any way contravened the conditions laid down by Government and the Municipal Council, the provisions in the District Municipalities' Act and bye-laws framed under them, as well as the rules of the Canon Law. It is impossible to believe or even imagine that any injury or hardship has been caused to any Roman Catholic of Mangalore.

APPENDIX A

From

The District Collector,
South Kanara.

To

The Secretary,
Board of Revenue, Madras.

The Municipal Council have, after communication with my predecessor applied for 2 pieces of ground for burial places for Hindus and Catholic Christians respectively. The site for the former is to the North of and beyond the old Municipal garden at Urwa; and the latter is separated by a road from the existing Basel Mission burial ground on a hill near the Carmelite Convent at Kankanady. Both are convenient situations and the closing of burial grounds in the town render the formation of new grounds necessary. The Council has arranged for the opening of a Mussulman burial ground in private land. The plots now applied for have been surveyed at the cost of the Council and the plan submitted.

			A.	G.
Hindu Burial ground is plot No.	1	on plan	7	75—10
Catholic ,,	2	,,	5	29—10

I have the honour to recommend that the Board will move Govt. to grant site to the Council free of assessments for the purpose.

Resolution dated 17-11-1887. M. 757

Submitted to Govt. with the Board's recommendation that the 2 plots of ground applied for be transferred to the Mangalore Municipality free of assessment.

(*Sd.*) R. S. BENSON,
Secretary

To the secretary to Government, Rev. Dept. with two plans.

Copy to Collector of South Kanara.

Order—dated 20th December 1887 No. 1174—Revnue.
Land Revenue No. 131 Sanctioned.
True extract

(*Sd.*) J. F. PRICE,
Secretary to Govt.

To the Commissioners of Land Revenue, with two plans.
To the Local and Municipal Department.

APPENDIX B

Proceedings of a General meeting of the Municipal Council of the Town of Mangalore held on the 29th February 1888.

4. G. O. No. 61 M. Misc./23. 1. 88 communicating sanction to the transfer to the Mangalore municipality of lands required for burial places to be used by Hindus and Roman Catholics.

The Bishop of Mangalore will be invited to state if he is willing to take over the management of the R. C. Cemetery subject to the conditions that he enclose it with a substantial wall and that the provisions of Act IV of 1884 be carried out to their full extent.

Sec. 238. Whoever in any Municipality buries or burns or causes or suffers to be buried, or burnt, any corpse in any unregistered and unlicensed vault, grave, burial or burning ground or other place, private or public, shall be liable to a fine not exceeding Rs. 100/-.

Sec. 239. The person having control of a burial ground or burning ground shall give information to any person appointed by the Municipal Council in that behalf of all burials and burnings which take place in or on such ground.

Sec. 241. Whoever

(i) buries, or causes to be buried, any corpse or part of a corpse whether dug, or constructed of masonry, or otherwise in such manner that the surface of the coffin, or the surface of the body where no coffin is used, is at a less depth than five feet from the surface of the ground, or

(ii) builds, or digs, or causes to be built or dug, any grave

in any burial ground at a less distance than two feet from th margin of any other existing grave; or

(iii) without the sanction in writing of the Municipal Council, or an order in writing of a Magistrate re-opens a grave already occupied; or

(iv) brings or conveys or causes to be brought or conveyed, a corpse, or part thereof, to any burial or burning ground, and does not cause the burial or burning of the same to commence within six hours after its arrival at such burning ground; or

(v) when burning or causing to be burnt, a corpse or part of a corpse in any burning ground, permits the same or any part thereof to remain without being completely reduced to ashes; or

(vi) permit the clothes, or other articles connected with the burning of such corpse to remain at or near such ground without being completely reduced to ashes; or

(vii) carries a corpse or part of the corpse through any street not decently covered; or

(viii) while carrying a corpse or part of a corpse within the Municipality leads the same in or near any street, for any purpose whatever; or

(ix) removes otherwise than in a closed receptacle any corpse or part of a corpse kept or used for the purpose of dissection, shall for each offence be liable to a fine not exceeding Rs. 50/-.

Sec. 242. All grave diggers and other attendants at a public burial or burning ground shall be licensed by the Municipal Council, and any person acting as such without such license shall be liable to a fine not exceeding Rs. 5/-. Such license may be withdrawn or cancelled at the discretion of the Municipal Council.

Proceedings of the General meeting of the Municipal Council of the town of Mangalore held on 11th April 1888.

Res. No. 10.

Letter dated the 15th March 1888 from the Bishop of Mangalore stating that he is willing to take over the place assigned for the Roman Catholic cemetery subject to the condition laid down in Resolution No. 4 dated the 26th February 1888.

Recorded. The Bishop s proposals are approved.

APPENDIX C

Extracts from the Proceedings of the Board of Administration of the Cathedral Board.

Proceedings of the Meeting held on 17th Aug. 1890.

Res. No. 5:—It is very essential that the piece of ground allowed by Government for the New Cemetery to be opened at Kankanady should be taken possession of, from the Municipal Authorities. Its boundaries clearly demarcated and steps taken to enclose the whole ground by a mud wall and otherwise adapt it for the purposes of a cemetery.

Proceedings of the Meeting held on 27th December, 1891.

Res. No. 4. The Rev. President further brings to the notice of the Board that the parishioners of Milagres desire that the new Cemetery at Kankanady which is now common to both the Milagres and Rosario Cathedral Parish, be given up for the exclusive use of the Milagres Parishioners, it being more conveniently situated to that Church than that of Rosario, and it being also desirable that the responsibility of maintaining by enclosing the ground and building a chapel in it for the performance of funeral services, a work which cause immediate attention, but has been allowed to lie over indefinitely for want of proper understanding between, and immediate action on the part of the two parishes be not divided, as at present. The Board resolves that before the rights of the Rosario Parishioners in the Cemetery in question can be surrendered they should be sure that another suitable place be available for them to be used as a Cemetery. They therefore resolve that prompt steps should be taken to obtain a suitable site in communication with the local Authorities and the Municipality of Mangalore.

Proceedings of the Meeting held on 19th June 1892.

Res. No. 10. The old question about the Kankanady Cemetery ground having again been moved by the Rev. President of Milagres with a view to a decision as to whether the Rosario Church is to give up or reserve its rights to a portion of the said ground, the board are of opinion that it is not advisable to give up all at once and their right to the said ground, before they secure any other ground at least equally good if not

better, in its stead, and resolve therefore that an application be made for the site opposite the existing Jeppoo Cemetery on the other side of the road between the old and the new roads. Mr. J. S. Albuquerque was requested, and kindly consented to see the ground and prepare a sketch of it, to enable the Board to put in an application before the Authorities concerned.

The Proceedings of the Meeting held on 14th Decr. 1902.

Res. No. 4 & 5. Mr. Alvares has produced the copy of the order of the Collector handing over to the Church the ground called Bishop's quarry dated .... Read the letter dated 26th Nov. 1902 from the Rev. Vicar of the Milagres Church asking for a meeting of the Vicars and of the two churches at the Bishop's residence re. the burial place at Kankanady, which those of Milagres desire to have wholly for themselves. Resolved that the place be inspected by the Vicars with Messrs. D'mello, J. S. Albuquerque and S. Alvares and then a day appointed for the meeting at the Bishop's residence.

Proceedings of the Meeting held on 11th Jan. 1903.

Res. No. 4. Re. the Kankanady Cemetery the commission appointed by Res. No. 5 of the Meeting of the 14th December 1902 states that the Cathedral requires its Kankanady Cemetery since the Jeppoo Cemetery even with the addition of the Bishop's quarry is too small for our purposes and it would be difficult to extend the latter.

Extracts from the Proceedings of the Board of Administration, Milagres Church.

10—11—1902

Improvement of the Kankanady Cemetery.

The Board is of opinion that the ground is too small to admit its use jointly by the two extensive parishes as the Cathedral and Milagres, and considering the necessity that will arise to raise two separate Mortuary Chapels for the two parishes in the proposed Cemetery, the question as to which of the two parishes shall have the exclusive use of the cemetery is fit to be submitted for the arbitration and decision of H. L. the Bishop.

30—8—1903

To consider once for all whether we should share with the Cathedral, the Kankanady Cemetery or it is expedient to apply to Government for a site for a new Cemetery.

As the present burial ground attached to the Milagres Church is almost filled up, it is resolved that an application be made to the Municipality for a suitable place for burial ground of about 2 acres or more in extent.

22—7—1923

To put up a wall around Kankanady Cemetery.

Sanctioned.

APPENDIX D

D. Dis. 3432—35.

Proceedings of the Collector of South Kanara dated 25th September 1935.

E. M. Gawne, Esq., I. C. S.

Burial ground—Roman Catholics—Mangalore Taluk—Kankanady village—R. S. No. 11/A2A—levying of fees and construction of a Chapel—representation from the Roman Catholics of Mangalore—orders passed.

Ref. (1) Petition dated 30—7—'35 from some of the Roman Cotholic residents of Mangalore
(2) Mangalore Rev. Divl. Officer's L. Dis. 3254/35 dated 8—9—'35
(3) Petition dated 20—8—'35 from Mr. M. S. Sreshta, M. L. C., C. C. S.
(4) Mangalore Rev. Divl. Officer's N. Dis. 3864/35/Bl dated 8—9—'35.

1. In their order No. 1174 dated 20th December 1887, the Government sanctioned the transfer of R. S. No. 11/A2A of Kankanady village, measuring 5 acres and odd to the Mangalore Municipality free of assessment for use as a burial ground to Roman Catholics. Some of the Roman Catholics of Kankanady village have represented to the Collector, that under

the orders of the Bishop, fees are being levied for the burials of the dead in that plot and that a mortuary chapel has been constructed on the plot and converted into a permanent Parish Church. They further represent that under orders of the Bishop, the resident Parish Priest is arranging to extend the mortuary Chapel into a Parish Church and to construct on the burial ground a parochial house for the Parish Priest. The petitioners protest against the above action of the Bishop.

2. The G. O. handing over the land to the Municipality makes no stipulations about free burials, and the contentions of the petitioners about free burials are not borne out by Government records. The Collector, therefore, declines to investigate the question of levying burial charges.

3. But if the mortuary Chapel is developed into a Parish Church, then there is a breach of conditions. Much more if any priest's residence is erected there. The land was given free of assessment for a specific purpose. The Bishop cannot vary the use of the land without reference to Government.

4. The Collector has no objection to the cart-track on the Northern side being subdivided if the Rev. Divl. Officer thinks it advisable.

5. In the circumstances, the Collector cannot comply with Mr. Sreshta's request to hand over a part of the land for the new "Valencia" Church.

(By order) (*Sd.*) R. SHIVA RAO
26—9—'35
Huzur Sheristedar.

APPENDIX E

Petition: Collector's L. Dis. 4903/35

Subject matter. Petitioners report that daily Mass is said in the Mortuary Chapel and Parochial services held on Sundays. Request that they may be stopped and chapel dismantled. Order—Collector does not interfere

APPENDIX F

Extract from the proceedings of the Mangalore Municipal Council, dated the 30th March 1936.

32. Read proceedings of the Collector of South Kanara, D. Dis. 3432/35, dated the 25th September 1935 passing orders in respect of management of the ground R. S. No. 11/A2A of Kankanady village.

In view of His Lordship the Bishop's letter to say that the Mortuary Chapel has not been converted into a Parish Church, no action is necessary.

APPENDIX G

From

M. R. Ry. C. K. Karunakara Menon, Avl., B. A., B. L.
Commissioner, Mangalore Municipality.

To

The Lord Bishop of Mangalore,
Mangalore.

Ref: C. 2505/D 2-36.

Burial Ground—Roman Catholic—Mangalore Taluk—Kankanady Village—R. S. No. 11/A2A—Further information requested.

In order to decide the appeal petition of Mr. N. C. A. Saldanha and others, dated the 19th May 1936 and a copy of which was sent to you on 22nd June 1936 the following information is considered necessary:—

1. Whether the Mortuary Chapel in R. S. No. 11/A2A is being used a Parish Church, or is converted into one, either permanently or temporarily and from which date it is being used as a Parish Church.

2. It was stated at the meeting of the Municipal Council that fees are charged for burial, in the ground in question, to meet the cost of the upkeep of the same. If it is a fact, I request you will please direct the concerned to furnish to the Municipal Council all accounts or such of them as exist pertaining to

the collection of the fees for burial in this ground time to time. The actual accounts are necessary rather than any copies or extracts. The nature and quantum of the fees charged, the various particulars of disbursement; in the past and at present and when actually the practice of charging fees began will be important matters for the consideration of the council when the subject comes up at the next meeting of the council about the 21st August 1936. I therefore request you will please furnish the above as early as is convenient.

Your obedient servant,
C. R. KARUNAKARA MENON,
Commissioner, M. M.

APPENDIX H

From

The Rt. Rev. Dr. V. R. Fernandes,
Bishop of Mangalore.

To

The Commissioner,
Mangalore Municipality, Mangalore.

Sir,

With reference to your letter No. Ref. C. 2505/D-2-36, dated the 6th August, I beg to say that since the creation of the Valencia Parish on 3rd March 1935, the Mortuary Chapel, previously constructed, besides being used for funeral services of all those buried in the Cemetery, is also used for parochial services, temporarily, pending construction of a new Parish Church. The holding of such parochial services for the benefit and convenience of the parishioners, numbering over 2000, does not in the least interfere with the user of the Mortuary Chapel and the cemetery as a burial ground.

A small extent of 44 cents has been allotted for burials of the paying section of the Valencia Parish, as well as for burials for the Catholics of the whole of Mangalore, seeking burial there on payment. This does not take away the right

of the poor Catholics of Valencia or of the whole town of Mangalore for claiming free burial in the cemetery.

I further beg to say that after the cemetery was made over by a resolution of the Municipal Council No. 4 dated 29-2-1888 to my predecessor in office, its internal administration and management is vested in the Bishop, and the Bishop is bound to administer it under the Canon Law and in conformity with the practice prevailing in the parish churches of Mangalore and the Diocese. The receipt of grave fees in proper cases and their disbursements, are acts of internal administration. Accordingly I regret my inability to furnish you with the accounts called for.

I may add that the conditions under which the cemetery was made over by the Council, have been faithfully observed and the petitioners therefore have no real grievance.

Yours faithfully,

(Sd.) V. R. FERNANDES,
Bishop of Mangalore.

APPENDIX I

From

The Rt. Rev. Dr. V. R. Fernandes,
Bishop of Mangalore.

To

The Commissioner,
Mangalore Municipality,
Mangalore.

Sir,

In continuation of my letter dated 20—8—'36 in reply to your letter No. Ref. C. 2505/D 2—36, dated the 6th August, I would like to write further on the subject as follows:

1. Since the creation of the Valencia Parish on 3rd March 1935, the Mortuary Chapel, previously constructed, besides being used for actual burial services of those interred

in the cemetery, clergy as well as laity, and for services for the dead subsequently on the 3rd, 7th, 30th and anniversary days, is also used for parochial services, temporarily, pending construction of a new parish church. The holding of such parochial services for the benefit and convenience of the parishioners, numbering over 2000, does not in the least interfere with the user of the Mortuary Chapel and the cemetery as a burial ground. Moreover the Collector in his endorsement L. Dis. No. 4903/35 dated 7—11—'35 on the petition dated 22—10—'35 from C. A. Saldanha and 4 others praying that parochial services may be stopped in the Mortuary Chapel, has passed orders declining to interfere in the matter.

2. The G. O. handing over the land to the Municipality makes no stipulations about free burials, and the contentions of the petitioners are not borne out by Government records. (Vide order passed in para 2 of Proceedings of the Collector of South Kanara, D. Dis. 3432—35, dated 25th sept. 1935). The resolution of the Municipal Council No. 4, dated 29—2—1888, transferring the burial ground to my predecessors in office, likewise does not make any stipulations regarding free burials. Neither are there any provisions regarding free burials in the Madras District Municipalities Act and the bye-laws framed thereunder. The Municipality as per G. O. No. 2048 M, dated 29th Nov. 1917 has to bear the cost of burials of paupers and destitute persons who die in the town in a Hospital or otherwise, and pays at the rate of Rs. 2 per each such burial. Free sites for such burials will be provided. Further under Canon Law (Canon No. 1235) decent burials have to be given to the poor free of charge.

3. The receipt of grave fees and their disbursements, as well as the allotment of different plots of the cemetery for the burial of the several Parishes and Catholic Institutions of Mangalore, are acts of internal administration and management, which is vested in the Bishop since 1888 and which the Bishop has exercised all along without any interference on the part of the Council. This is the reason why I regret my inability to furnish the accounts called for.

4. The administration of the burial ground is conducted by the Bishop in accordance with the Canon Law, which is binding on all Catholics. I may add that the conditions under which the cemetery was made over by the Council, have been

faithfully observed and the petitioners therefore have no real grievance to call for the intervention of the Municipal Council.

Yours faithfully,

V. R. FERNANDES

Bishop of Mangalore

APPENDIX J

CORPORATION OF MADRAS HEALTH DEPARTMENT

Ripon Buildings, Park Town, P. O. Madras

Dated 30th July 1936.

From

Dr. C. S. Govinda Pillai,

M. B. Ch. B., L. R. C. P. & S., D. P. H. (Edin.),

Health Officer, Corporation of Madras.

To

The Commissioner,

Municipal Office, Mangalore.

Sir,

Reference:—Your letter Ref. C. No. 2505/D.2/36, dated the 22nd July 1936, to the Commissioner, Corporation of Madras, forwarded to this department for disposal, I write to furnish the information called for therein as hereunder:—

1. No separate burial ground for Roman Catholics is provided by the Corporation. Burial Grounds are provided in general under Section 320 of the Madras City Municipal Act IV of 1919 and a separate burial ground for Christians of all denominations which is called a General Cemetery. Plots are allocated to each denomination.

2. These are controlled and managed by the Priests of the respective sect of Christians in the matter of burials levy of fees and appointment of grave diggers or gardeners to keep the ground in order and clean.

3. Fee for burial is charged by the Priest concerned which is appropriated for paying the grave diggers and for maintenance of garden etc.

4. The fee is levied at the discretion of the Priest in charge and is used for the above purpose.

5. Left to the discretion of the Priest in charge. *(This is reply to query, whether free burials are allowed or whether payment of charges is compulsory even in the case of poor people and what the fee levied is).*

6. A copy of the by-laws framed under Section 349 (22) (a) of the Act is enclosed.

7. All burial grounds in the city whether public or private and though managed by private agencies are vested in the Corporation under Section, 319, 320, 324, 326 and by-laws under Section 349 (22) (a) of the Act.

All general Christian burial grounds under the control of the Corporation or Government are, as a rule governed by the ecclesiastical rules, copy of which can be had from any local clergy of the order of the Church of England or on application to the Archdeacon of Madras.

Sd.) C. S. GOVINDA PILLAI,
Health Officer.

(True Copy)

APPENDIX K

From

The Right Rev. Monsignor B. M. Ranzani, S. J.
Administrator Apostolic of Calicut.

To

Dr. L. P. Fernandes, B. A., L. M. & S.,
Father Muller's Hospital,
Mangalore.

Dear Doctor,

With reference to your enquiry regarding the Roman Catholic Cemetery at Calicut I am giving you the following information:

(1) The cemetery about one acre in extent, was handed over to us by the Calicut Municipality about 40 years ago, free of assessment for burial of Catholics.

(2) It is enclosed by a stone wall at the cost of the Municipality.

(3) The poor and destitute who die in the Hospitals or in the Poor House are given free burial, but the Municipality pays us Rs. 2/- for each such burial.

Also the poor and destitute who die in their own houses are given free burial at our own cost.

(4) Those that are able to pay are charged fees by us varying from Rs. 2 to Rs. 50, according to the class in which they elect to be buried.

(5) The Municipality does not interfere with the internal management of the burial ground.

Yours sincerely,

Ca Mangalore,
4th Aug. 1936.

B. M. RANZANI, S. J.
Administrator Apostolic of Calicut.

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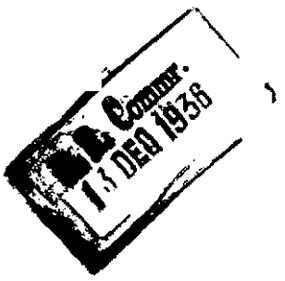


Mangalore,
10th December 1936.

From

M. S. Preshta, C.S.I. (retired), I.C.S.,
and
L. P. Fernandes, B.A., B.L. & C.S.,
Mangalore.

Dear Sir,

After consultation with our Bishop we are writing this letter to you.

With regard to the application for alienation of land for building a Parish Church in the Valencia Cemetry at Mangalore, if the Board considers that the holding of parish services in the Mortuary Chapel temporarily is objectionable, we pray that in the interests of our Community, it may be considered the application for alienation may be sanctioned.

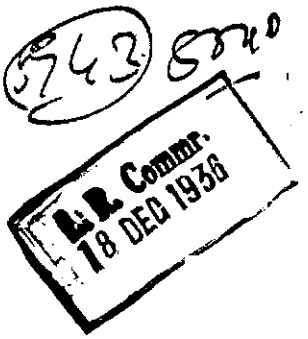
We beg to remain,
Your most obedient servant,

M S Preshta
L P Fernandes

C. S. Hill, Esq., C.I.E., I.C.S., I.C.S.,
First Member of the Board of Revenue,

OP'S HOUSE, KODIYALBAIL, MANGALORE, 12 Dec. 19

B 543 Estt



From

The Rt. Rev. Dr. V. R. Fernandes,

Bishop of Mangalore.

To

J. F. Hall, Esq., C.I.E., O.B.E., I.C.S.,

First Member of the Board of Revenue,

M A D R A S.

Dear Sir,

I have authorised Mr. M. S. Sreshta and Dr. L. P. Fernandes who interviewed you on my behalf, to request condonation of the irregularity in carrying on parish services in the Mortuary Chapel in Valencia Cemetery at Kankanady, Mangalore, and request that the alienation asked for may be granted.

I wish to express regret at the irregularity which was not intentional and trust that it will not stand in the way of my request for the alienation being granted.

I remain,

Yours sincerely,

V.R. Fernandes

Bishop of Mangalore.

The point is - Has the irregularity been discontinued now that it is known to be an irregularity in the Bishop who and he gives a guarantee that it will not be repeated? Bethanasha the Collr.

Sf 16 51

C.F. 16.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying ..		
When copied ..		
When examined..		
When signed ..		
When despatched.		

SUBJECT:— Observation Land (Kanara) - Mangalore Dt - Kankanady Bye-Road formed.

READ AGAIN _____, dated _____ 19____.

" " _____ " _____ 19____.

READ *ALSO*:—

No. _____ From the B5020- , No. _____, dated _____ 19____.

" _____ " B5854/36 " Q " _____ 19____.

" _____ " B5543/ " _____ " _____ 19____.

~~Order~~ ~~Ms.~~ / Resolution Rout.- No. B5020/36-1. dated 4.1.37 ~~22-12-19 36~~

Issue to. SK 22/1/36

From the booklet enclosed the Board observes that the Municipal Council have passed a resolution agreeing to hand over the land to the Bishop of Mangalore. The Collr is requested to ascertain & report whether there is any thing in writing, ~~to~~ ~~base~~ conveying the land to the Bishop

2. The Bishop of Mangalore requests condonation of the irregularity in carrying on parish services in the mortuary Chapel pending

5th a

on the usual ground in question.
The Ord^y is requested to report
whether the complaint has
been discontinued now that
it is known to be an complaint
& whether the Bishop is
prepared to give a guarantee
that it will not be repeated.

53 RP197 (519) 5040

Ref.B3-4776-36. South Kanara Collector's Office,

Mangalore, dated 26 - 1 - 1937.

BOARD OF REVN.
30 JAN 1937

From

A. D. Crombie, Esquire, C.I.E., I.C.S.,

Collector of South Kanara.

To

The Secretary,

Board of Revenue,

M a d r a s.

Sir,

Alienation - Land - Mangalore Taluk - Kankanady 'B' village - Burial ground.

Ref Ps1-52CF Board's R.No. 5040-36-1 dated 4-1-1937.

In reply to the Board's reference I submit a copy of the letter Ref. C.No. 152/D2/37 dated 16-1-37 of the Commissioner of the Mangalore Municipality with copies of the enclosures to his letter. The resolutions referred to by the Commissioner are also found published in the South Kanara Dt. Gazette. It is stated that there is no other record showing the conveyance of the land to the Bishop.

p57CF

2. I enclose copies of the statements dated 18-1-37 and 20-1-1937 of the Bishop of Mangalore. The Bishop states that he has now stopped parish services in the mortuary chapel and he also gives an assurance that the services will not be repeated there.

55CF

3. The booklet received from the Board is re-submitted.

R45.46CF

27.1.37

For Collector.

27.1.37

Statement submitted by the Rt. Rev. Dr. V.R. Fernandes, Bishop of Mangalore, on 18th January 1937 with reference to Collector's reference B3-4776-36 dated 9-1-1937 communicating Board's Ref.B-5040-36-1 dated 4-1-1937.

Read the above reference asking me to give an undertaking to discontinue "carrying on" Parish services in the Mortuary Chapel constructed in the Burial Ground" in Kankanady B village. I am taking legal advice in the matter of this undertaking and will submit my communication to the Collector within three days.

Sd/- V. R. Fernandes,
Bishop of Mangalore.
18-1-1937.

In my presence.

Sd/- H. Narasimha,
Revenue Inspector,
18-1-37.

Statement from Rt. Rev. Dr. V.R. Fernandes, Bishop of Mangalore dated 20th January 1937.

Collector's Reference B3-4776-36 dated 9th January 1937 communicating Board's reference B.5040-36-1 dated 4th January 1937.

In continuation of my statement dated 18th instant, I submit that as the Board of Revenue has objected to the holding of Parochial services in the Mortuary Chapel of the "Valencia" Cemetery even temporarily, I have stopped the services and I hereby assure that the same will not be held there any more. I pray that the Board may be pleased to consider favourably my application for alienation of land for erecting a Parish Church.

Sd/- V.R. Fernandes,
Bishop of Mangalore.
20-1-1937

(True copy)

20-1-37

For Collector.

Letter-from M.R.Ry. C. R. Karunakara Menon, Avl.,B.A.,B.L
Commissioner, Mangalore Municipality.
To-the Collector of South Kanara, Mangalore.
Dated-Municipal Office, Mangalore, 16.1.1937.
No.-Ref.C.No.152/D2/37.

******

Alienation - Land - Mangalore Taluk - Kankanady village Burial Ground.

Your Ref.B3-4776-36, dated 9.1.1937.

******

I have not been able to trace the letter of the Lord Bishop of Mangalore agreeing to take up the management of the Roman Catholic Cemetery at Kankanady referred to in Council's Resolution No.10 of 11.4.1888. Copies of the two resolutions of the Municipal Council in the matter are enclosed. The ---- originals of these are in a book and this book will be sent if necessary. No other record in the matter is traceable.

(True Copy.)

27.1.37

For Collector.

27.1.37

Extract from the Proceedings of the Mangalore Municipal Council, dated 29th February 1888.

Present:-

xx xx xx

4. Read G.O.61 Mis./23-1-'88 communicating sanction to the transfer to the Mangalore Municipality of lands required for ---- burial places to be used by Hindoos and Roman Catholics.

The Bishop of Mangalore will be invited to state if he is willing to take over the management of the Roman Catholic Cemetery subject to the conditions that he encloses it with a substantial wall and that the provisions of Act IV of 1884 be carried out to their full extent.

xx xx xx

(True Extract)

Municipal Office, Mangalore,
Dated the 15th January 1937.

Sd/- C.R. Karunakara Menon,
Commissioner, M.M.

(True Copy)

27.1.37

For Collector.

27.1.37

J f 1+ 63

C.F. 16.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying ..		
When copied ...		
When examined..		
When signed ..		
When despatched.		

SUBJECT :— Alienation - Land - (S. Kanara) - Mangalore Taluk - Kankanady Village - Burial ground - R.C. Church of Mangalore - Abolished.

READ AGAIN _____, dated _____ 19____.

" " _____ " _____ 19____.

READ *ALSO* :—

No. B 5040/36 From the Coll^r of S. Kanara Dy, No. B3.4776/3, dated 21-5-1936.

" B 519/37 " — Do — " — " 26-1-1937 } Q

" _____ " _____ " _____ " _____ 19____.

~~Order~~ ~~Minute~~ Resolution ~~Note~~. No. B 5040/36-2, dated 28-3-1939.

The Post Office is not responsible for
of Inland registered articles, unless they

cial conditions and restrictions as to
in the current edition of the Post and
pon every sender of an Insured post
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June 28/3/39

As a mortuary chapel is an accessory to Christian burials, and its construction ~~as the Construction of~~ one is no violation of the conditions of the grant. But ~~the~~ it is a portion of the land and ~~the~~ ~~of~~ as a parish church, is a violation. The Board observe that in view of the fact that parish services in the mortuary chapel have now ~~stopped in the mortuary chapel~~, there is no violation of the conditions of the grant. ~~As~~ There is therefore n

the grant. If the Bishop of
Bangalore wants the plot
No. 11/1 for a parish church,
he can be alienated by the G
~~the proceeds is for the~~
another only if the
Municipality relinquishes
~~the plot~~. The Collector is
requested to ascertain from
the Municipal Council whether
it is willing to relinquish
the plot in question and to repo
to reply to the Board.
~~to enable the Land Revenue~~
~~alienated in favour of the~~
~~Bishop for building a church~~
~~church and if so to what extent~~

8515/1 5040/36

Ref.B3-4776-36.

South Kanara Collector's Office,

Mangalore, dated 3rd April 1937.

From

T. A. Varghese, Esquire, I.C.S.,
Ag. Collector of South Kanara.

The Secretary to
The Board of Revenue,
Madras.

Sir,

Alienation - Land - Mangalore Taluk - Kankanady 'B' village - Burial ground.

Board's ref. B.No.5040-36-1 dated 4.1.1937.

I request the favour of orders on my Ref.B3-4776-36 dated 21-10-1936.

This may be filed - Accepted.

has been despatched to the collr. on 3-4-37.

5-4.

For Collector.

5.4.37

From

The Poor Roman Catholics of Mangalore.

TS 1718
5040/36.

To

The Secretary,

Board of Revenue, M A D R A S.

Honoured Sir,

On 15-12-1936, we had the pleasure of receiving a consoling reply from our Collector that the whole question relating to the cemetery is under the consideration of the Board of Revenue and that orders are awaited.

(Reference B3-4776-36 - Land - Kankanady village - Burial Ground - Roman Catholics - petition dated 6-12-'36).

On 26-3-1937 on behalf of the petitioners we wrote the following intimation to the officiating -- vicar of Valencia (copy enclosed), yet the Good Friday sermons and Easter Sunday procession were performed on the cemetery plot, we believe that this is also a continuation of irregularities (admitted by the Bishop) which is a direct contravention to your Honours orders.

We have the pleasure to place before your honour the cemetery in question has not yet been furnished with a complete boundary wall, and the negligence is so great at times, in time of need it is made a cart stand on account of the cart track in the centre, --- cattle grazing yard, early in the mornings the corner and pits on the east are used as latrines for the --- neighbours followed with pigs, and such a neglected

portion has been used for paupers to bury as potters field for the against party and suiciders as unblessed ground. This important ill-feeling of ours, we represent to your Honour.

We have to point out that the majority of us are not blessed with the riches of this world and that we are ranked as paupers, although we are only poor rate-payers and little cultured.

We, therefore pray your honour to withdraw the land from His Lordship the Bishop and entrust once more to the direct supervision of the Municipality as maintained for other communities in order to have a general and a common cemetery for Roman Catholics of Mangalore.

The long standing idea of His Lordship through Vicar of Valencia Church has been executed by means of a petition signed by Mr. Martin Vas and --- others. This request of the above party if properly enquired, calls for no parish anywhere; for on the northern direction there are 3 chapels & churches, where sacrifice of the mass is offered daily in different places within the distance of a furlong and a half, whereas on the southern and western direction there are 2 chapels in different places within the jurisdiction of 2 to 3 furlongs. On the eastern direction there is no church for 7 miles and the spiritual convenience will be made easy to the parishioners of Bajal, Bappal and Pakaladka, <u>if the new Valencia Church is posted there</u>. With this object, the above villagers have reserved a plot of ground from years together where there is only a nominal school kept up, which fact can be substantiated.

Further, we have to emphasise the facts that the requested portion of the land which the Bishop particularises as hard ground, has already been used for -- burials during the last 48 ½ years. A couple of burials took place on the same hard ground in the years 1935 & 1936 on a privileged fee on the assumption that a Church will be created on the spot. Even now if the graves are overturned, evidence in the shape of human bones -- would be found in the said ground. Moreover a building is not permitted to be erected on a ground where burials have taken place.

In order to over-rule our legal right of 48 years, of a common and general cemetery for Roman Catholics which was preserved by the Predecessors Ecclesiastical authorities, our present Bishop adventures and insists to erect a parish church in the neighbourhood of this burial ground with a mere object to do a large business of charging burials at the cost of the poor rate-payers as done in other parish cemeteries -- where no account is rendered and published.

We beg to remain,

Respected Sir,

Your most obedient servants,

Mangalore,
D/- 13 -4-1937

our petition to
remain in Counsel
closed herewith for
motion.

Basil Coelho Jr
Sebastian Cutinha
Ignatius Rodrigues B

Francis C D'Souza
Humpankatta.

Bari Pal
McDolbo John

Basil Coelho Jr
Sebastian Cutinha
Ignatius Rodrigues B

Sent for reference -
C. A. Saldanha
Sweet Home
Kankanady P.O.

Joseph Cheeran Jeppo

Remigius Saldanha, Silva Road

Albert J. Mascarenhas. Near Mission Gate

[illegible]

Thomas D'Souza Talnir

Felix Mascarenhas [illegible]

Mary Mascarenhas. [illegible]

[illegible] Talmar

David Saldanha Ann

[illegible] [illegible]

Joseph D'Souza

Pinto Kampakatta

[illegible] Bandar

K. [illegible] Talmar

S. Poulose Alvares do

Sebastian J. Lobo. do

mark of Gaspar D'Souza

[illegible] Kinkandy

A D'Souza Talmar

[illegible] Talmar.

A Lobo Talmar

R. Menezes. Bendoor.

[illegible]

[illegible] Kaikki

mark of Kasmir Dicruse Mercara Hi

— 'mark' of John D'Souza Attavar

— Mark of Manval Vaz - Kankanadi

— mark of Piede Fernanda.

Peter Pinto Baffal

— mark of David D'Souza Alpe.

A.R. Fernandez. Malavanavar Kalla

H.Tavares Bappal

— Mark of Francis Moraes Bappal

J.Joseph Gomes Attavar

Salvador Pinto

Francis Fernandes

— Mark of V. D'Souza Attavar

Mark of Louis Silvan Lamm
ಜೋಸಿ ಡಿಸೋಜಾ. Bandra

Mark of Irmo Caitata Bandra

John Nazareth Dankanday

Sylvester DS-ouza Bandra

d. y. Saldanha Jeppoo

Mark of John D'Souza Markand

Alexander Sequeira (Talvis)

Francis D. sousa Talvis

Nicholas moreiro (Jeppoo).

ಹೆಚ್ ಸೆಕ್ವೀರಾ (Talvis)

ಮಾಂಕೆಲ್ ಫ್ರಾನ್ಸಿಸ್ ಅಕ್ಕ್ಷರ

ಮಾರ್ಕ್ ಪೆದ್ರೊ ಜೋಸ್ ಅಕ್ಷರ

ಲುವಿನ್ ಸಿಗ್ನೇಚ್ ಜೆಪ್ಪು

ಫ್ರಾಂಚಿ ಮೊರೆನ್ ಬೆಂದುರು

ಬೊಗಾನಿ ವೆಗ್ಗನ್ ಜೆಪ್ಪು ಬಜಲ್

ಜೊನ್ ಶಿಕ್ಕೇರ ಜೆಪ್ಪು

ಡವಿದ್ ಫೆರ್ನಾಂಡಿಸ್ ಬಜಲ್

Vincent D'Souza

ಸಾಲಿಸಿಟರ್ ಅಕ್ಷರ

ಕಿಲಿಪ್ ಬೋಳ್ ಚುಚ್ಚುಲ

ಬಲಿಪಲ ಪೈಕಾಕಕ್ಕಡಿ

Mark of Salvador D'L

Victor. Pinto. connor

L. Fr. Saldanha Kankanady

Mark of Baptist Mathias

Mark of Lawrence D'Souza Talv

Mark of Sebastian Lobo Basar

Mark of [illegible]

P. Fernandes of Kankanady.

D'Souza

Rosario

John Ammanna [illegible]

Mark of Ullasanta [illegible]

J. J. Rodrigues [illegible]

R. P. Lasrado [illegible]

Mark of the Rego, [illegible]

From

The Poor Catholics of Mangalore.

To

The Chairman in Council,

Mangalore Municipality,

M a n g a l o r e.

Honoured Sir,

We, the undersigned, on information that the petition of the Catholic Bishop of Mangalore regarding alienation of one acre of Bearypalke alias Valencia Cemetery R.S.No.11A/2A, for erection of a --- Parish Church and Parochial house, to the Board of Revenue, Madras, has been directed to you for final disposal, submit as follows:-

The presumption that the said part is hard ground, hence unsuitable for burials, is unwarranted by facts. Burials did take place there all along these 48 years. We desire to emphasise upon a couple of burials in 1935 & 1936, on previliged fee, on the assumption that they would be within the precincts of the Parochial Church, to be raised there in the near future. Also assurance to the affect was given to the parties concerned. Though attempts at removal of traces of evidence have often been made, yet human bones will be found at the said spots, if overturned. Moreover, it is questionable whether a building could be erected where a burial has taken ~~xxx~~ place.

The request of a certain party if proper enquired, calls for no parish anywhere there. For,

on the northern direction there are 3 chapels and churches, where daily sacrifice of the Holy mass is offered in different places within the distance of a furlong; whereas on the southern and western direction there are 4 chapels ensuring the needs of the worshippers, within close proximity of each other.

There is nothing to show excepting a solitary petition lately got up that the said neighbourhood, prior to this time ever felt the need for a parish church. While it must needs be pointed out that in spite of persistent demands, and a reservation of a place by the people of Bajal, Doppal and Pakaladka no Church has yet been raised, though preliminaries have been settled long since.

The Bishop owns extensive warg lands but a few spaces away from the cemetery which could in every way be well utilized for the parish church. Therefore the persistent petitions of the Bishop in the matter can rest on no other basis than prestige.

It is to be deplored, should the Bishop allowed his own way, in the long run, we poor Ca...lics would be deprived of a common burial ground. The unjust classification of graves is proving not only a hardship in the present economic stress, but constitutes a social degradation to those buried on the ground assigned, which is repugnant to all sense of human decency and respect.

Further the alienation of any part of the cemet would constitute an injustice to the poor; for, the alr limited ground would in course of years be completely f up.

We beg to remain,
Honoured Sir,
Your most obedient servants,

D/- 14th April '37.

83

C.F. 16.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying		
When copied		
When examined...	DESP 17 MAY 1937	
When signed		
When despatched.		

SUBJECT :— Alienation - Land - (S. Kanara) Mangalore Tk - Kan Kanady B village - Burial ground - objection - petition -

READ AGAIN ~~B.D's Ref B.5040-36-2~~, dated 23-3-37 — Q 19.

" " " 19.

READ *ALSO* :—

No. From the B 1718/37 — Q. No. , dated 19.

" " " " " 19.

" " " " " 19.

~~Order~~ Ms. Rejcd B. 5040/36-3 dated 13.5.37 19.
~~Resolution Rout.~~

Forwarded to the Collr of South Kanara for continuation of our B.D's Ref. read above an early report on the allegations in the petition.

R. 28-7-37.

Sd/- 7.5.37.

Sec 13/5/37

W 13/5/37

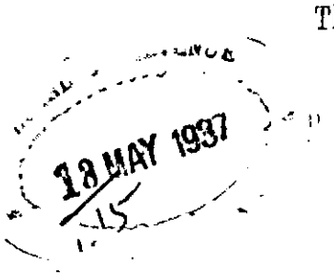
85 RL 1 52091 5

To

The Honourable Board of Revenue,

Land Revenue,

M a d r a s.



Humble representations of the parishioners attached to the Milagres Parish Church, Hampenkatta, Mangalore. S. Kamara.

Dated 11th ~~April~~ May 1937.

Humbly sheweth,

That the petitioners respectfully beg to represent their grievances with sanguine hopes that they will meet with redress.

2. That the burial ground at Beary Pally was given to our Parish Church many years ago and has been in its exclusive possession, though a portion of it was being utilized for the burial of lepers and destitute people who die in the Father Muller's Hospital, Kankanady.

3. That while allowing a small mortuary Chapel to be erected thereon, it was bonafide given for the said purpose and not for any other use whatsoever.

4. That at the time of creating a new Valencia Parish, the Ecclesiastical head presumably wanted to extend the said Chapel and to convert it into a parish church and petitions on both sides have poured in.

5. That in course of time petitioners may also find the necessity of the burial ground at Beary Pally and, therefore, pray that no portion whatsoever thereof may be allotted for the building of a Church thereon as

th space left after deducting those mentioned in paras 2 and 3 supra is very small.

For which act of justice and kindness, petitioners shall, as in duty bound, ever pray and remain ever grateful.

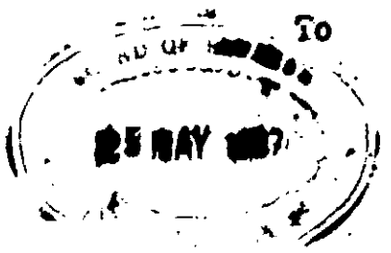
Copy presented to the Chairman-in-Council, Mangalore Municipality, with signatures.

TO. A.S.(L.R) The petition is unsigned. A signed copy is purported to have been presented ~~to the~~ Hund. chairman. This may be filed. ~~—~~ A similar Agenda both was forwarded to the Coll. for report in B-3 Ref: B 5048-36-37 dt 13-5-37.

19-5-37.

19/5

20-5-37



To

The Chairman-in-Council,
Mangalore Municipality,
Mangalore.

From

Poor Roman Catholics,
Mangalore.

Honoured Sir,

We beg to submit herewith - regarding the petition requesting alienation of Bearypalla cemetry as follows:-

It is to be understood that the question is not of prestige of the petitioner, but whether an action complete in its manner and procedure prejud the interests and rights of a section of rate-paye To accomodate or oblige one individual or more how placed another section cannot be sacrificed.

1. The grant was for a specific purpose. It do not stipulate or provide for alienation of any par at any time for any other purpose. Neither does i contemplate, that it be used for purposes of revem of which no account is rendered, and the amount diverted, utilised for purposes other than maintem of the ground. Alienation is violation of the gra It is the accepted policy of Municipalities in Indi that graves should not exist alongside the walls o any building or church. The circumstances, i.e. , of land round about, large empty spaces in betwe few deaths, and population that once favoured th contrary policy in Mangalore, have now all disa/ It is questionable whether a building is permit to be erected where a burial has taken place.

2. The condition laid down in Resolution No. 4 of 1883 by the Municipality is not at all observed. The walls on the northern and eastern boundaries have more than two dozen, some wide yards wide gaps, which serve as an ingress and egress for animals, men and carts. In that part demarcative for free burials, there are number of deep trenches, which serve as depositories of night soil. Respect to the dead of the poor is thus preserved.

3. The statements filed regarding the subject at the previous discussion in the Council bear that the ground and chapel without even obtaining the sanction, was used for purposes other than for that it was intended, yet facts were denied. Later it was made clear that there is no desire or intention to contravene the conditions, that the condition of the grant would be maintained, inviolate, and was stated that a church would be erected elsewhere after admitting euphemistically the violations as irregularities. The present petition is that from the cemetry plot alone a portion, i.e. an acre is required to erect the church. The inference is obvious.

4. As almost all the Catholic cemeteries in town are about to reach their full capacity, within a short space of time would be a serious problem, both to the Municipality and Catholics of acquiring a afresh convenient and suitable burial ground. Scope is not only limited, but completely absent if such a contingency were to arise, while the population is on the increase. Hence alienation of any part, of the only spacious public cemetry is unwarranted as already half an acre is set apart for mortuary chapel and one acre for the

church under contemplation. In the present economic stress, the poor can have recourse only to this ground, a high fee being charged elsewhere.

5. The close proximity of ground to the Protestant burial ground and the only road leading to the latter being alongside the former, there is every probability, that worshippers in the church would be disturbed by the funerals passing, accompanied by general mass singing. Considering the existing dispositions and frame of mind, riffraff element in the either denominati might provoke and cause disturbance time to time or some other, thereby disturbing public tranquility. It is the laid down policy of the Municipalities in India, in view of the bitter experience that in according permits for erection of house of worship, any factors might lead to future agitation should not exist.

6. Point raised that nature of the ground being hard, it is unsuitable for burial is unwarranted by facts. All along 45 years burials did take place there. A couple of burials in 1935 and 1936 must be particularised being on a privilege fee, on the assumption that they would be within the church precincts, to be erected there in the near future. In spite of attempts at effacing, yet evidence in the shape of human bones, will still be found, if graves are over-turned. It is suggested that the burial ground should be marshy or sandy and not such that cannot easily give way during the monsoon or be opened by animals.

7. The part requested 11/1D, the boat maintained is in the centre of the entire plot which it relinquish

could facilitate for their unjust classification, victimisation and institute an element of autocracy. The result practically being "Right or rong" - I am the monarch of all that I survey, submit".

8. Meeting or arranging for spiritual needs is outside municipal functions, the more so, when any such act jeopardise the rights, constitutes an injustice to any section of citizens. It is to be deplored that a community clamouring for reservation should attempt to trample upon the rights of a section within itself. The Municipality as a custodian of rights of every section or community cannot be a party to any such gross betrayal.

9. Regarding the spiritual needs of the loca could it be contented at all, by any stretch of imagination, where there are four chapels within a of each other on the northern direction and three i the south-western direction within a distance of t or three furlongs where sacrifice of the "Holy Mas is daily offered, that there is a clear and definit want for another? Here it is pertinent to questio why in the south-western i.e. Bopsal, Bejal and Pukeledka, where there is absolutely no facility f worship for an area of nearly seven miles, no chur is contemplated even when the neighbourhood has clamoured for one, all these years. Within a few spaces of the Secretariat cemetry, Bishop owns exte very lands, why could not, that be taken up.

10. The suggestion that the preparedness to buy a part, if necessary in the future, for burial purposes, in lieu of the relinquished part cannot b

entertained. Firstly the suggestion is an hypothesis, and there can be no guarantee or binding in the matter, while the scope for any such acquisition then absent now, what can be said of the future?

11. With reference to the petition of the parishioners of Valmeic praying for a church, it must no doubt be asked whether there is any evidence of request or petition voicing such a need, prior to this time. The grounds and circumstances, adduced are in-conclusive and unsatisfactory. Regarding the 477 signatures, it is to be regretted that immature striplings should thus be exploited. A glance at the signatures would convince any one that they are the scatter strokes of a handful of artists, maning for only 477, if not more.

Let not the issue be prejudiced by personalities sentiment or bigotry, but facts evidence and reason decide.

We beg to remain,
Honoured Sir,
Your most obedient servants.

[illegible]ore,
[illegible]-8-1937.

(Sd) A. D'Souza
and 60 others.

Submitted to the Secretary, Board of Revenue, Madras

TO. A.S(LR) This is a copy of yesterday's petition. This is another Siyechai petition. Hund. Council No action seems necessary on it. This may be added to the file

R. S.

Revenue DEPARTMENT.

REMINDER

Land Revenue Branch.

To THE Collector of South Kanara

I [has the honour to invite / am directed to invite] attention to Board's [invite] No. B.5040-36-3, dated 13-5-37 and to request that the reply to it may be expedited / request that this reminder may be returned at once with information as to—

(1) the stage at which the matter now is,

2) the date by which a reply may be expected, and

(3) the circumstances which have caused the delay.

Office Bd Office

Station Madras

Dated 28.7.37

S. Kumaraswami 2817

Signature.

Superintendent

Designation.

SUBJECT.

Alienation - Land (S. Kanara) Mangalore Tq - Kaikamady B. Village - Burial Ground - objection Petition

C.F. 9

REPLY.

To THE Secretary to the Board of Revenue, Madras.

Sir,

I have received a report in the matter from the Tahsildar of Mangalore. I am awaiting the decision of the Municipal Council Mangalore in respect of the Board Refce. B.No.5040-36-2 dated 23.3.3 The Council has not yet arrived a decision.

Mangalore, Dated 2.8.37.

For Collecto

2.8.37

)81(4)

To A S(LR)

This maybe added to the file and the letter removed on 1.9.3?

CL
1 Sept

NW
17/8

Revenue DEPARTMENT.

K[illegible]DER. Board of Rev Branch.

To The Collector of

15 SEP 1937 Kanara

I have the honour to invite / am directed to invite / attention to

D. No. B 5640/36-3, dated 13-5-37 and 5

to re[illegible] just that the reply to it may be expedited. with request that this reminder may be returned at once with information as to—

(1) the stage at which the matter now is,

(2) the date by which a reply may be expected, and

(3) the circumstances which have caused the delay.

Office Board of Rev

Station Madras

Dated 7-9-37

(Bd) S. J. Kumaraswami 7.9.37
Signature.

Section Officer
Designation.

SUBJECT.

Alienation - land - Mangalore
[illegible] - Kankanady vce - Burial
[illegible] - Exception [illegible]

REPLY.

To The Secretary to the
Board of Revenue

Madras.

Sir

The Municipality has not given its opinion on whether it would relinquish the site

M U Vellodi
7.9.37

Collector.

To A.S.(G.I).

The next reminder may be issued on 10-3, necy.

C.P. 2. CONFIDENTIAL REVENUE DEPARTMENT

, please quote er, date and short title.*

Received Registered (confdl 707)

From (Name) M. R. Ry. Rao Bahadur M.V.Vellodi, Avgl, B.A.

(Designation) Collector of South Kanara.

Post Box ....., (Station) M a n g a l o r e.

Telegraphic Address .....

SECY. 20 SEP 1937

To

The Secretary to the

Board of Revenue, M a d r a s.

Ref. C. *No* B3 4776-36 *dated* 17th Septr. *19* 37.

Sir,

Alienation--Land--Mangalore Taluk--Kankanady (B) village -- S. No. 11/1B--Burial ground--Relinquishment by Mangalore Municipality.

ENCLOSURES.....

.....

.....

SPARE COPIES pp63-64 p83

Ref:- Board's Referces B. No. 5040/36-2 dated 23rd March 1937 and B--No. 5640/36-3 dated 13th May 1937.

The Municipal Council, Mangalore, has in its lution No. 50 dated 6th September 1937 agreed to quish S. No. 11/1B of Kankanady (B) village, mea 1 acre in extent which is required for the Paris Church. A copy of the resolution is enclosed.

p 60 pp67-76 p83

2. A copy of the petition, received with th reference (R.) No. 5040-36-3 dated 13th May 1937 w fore the Council, when the subject was considere The petition is enclosed. With reference to the tions made in it, I invite attention to paragrap 7 of Mr. Crombie's report Ref. 4776-B3-36 dated October 1936.

pp63-76

pp2-4

3. The petitioners have also submitted a mem addressed to the Hon'ble Minister for Public Hea protesting against the resolution passed by the cil on 6th September 1937. As the subject matt connected with the question under considerati submitting the Memorial through the Board as closure to this report. For various reasons an unfortunate schism in the Catholic Commun

pp5-11

Mangalore and it is particularly sorrowful to hear on --- enquiry that this opposition is actually engineered by some of the Roman Catholic clergy themselves. For the proper -- understanding of the matter I enclose a brochure on the subject of the Valencia Parish. I do not think that it would be right on the part of Government to encourage this opposition and would therefore recommend that the request made by the Bishop of Mangalore for the alienation of land (S.No. 11/1B) for the construction of a Parish Church may be favourably considered.

M. V. Wellard

Collector.

C.F. 32. CONFIDENTIAL. REVENUE DEPARTMENT

In reply, please quote number, date and short title.*

Received ..... *Registered* .....

From (Name) M. R. Ry. Rao Bahadur M.V.Vellodi, Avgl, B.

(Designation) Collector of South Kanara.

Post Box ....., (STATION) Mangalore.

Telegraphic Address .....

To

The Secretary to the

Board of Revenue, Madras.

Sir, Ref. C. *No.* B3 4776-36 *dated* 17th Septr. *19* 37.

ENCLOSURES.....

.....

.....

SPARE COPIES.....

*Alienation--Land--Mangalore Taluk--Kankanady(B) village -- S. No. 11/1B--Burial ground--Relinquishment by Mangalore Municipality.

Ref:- Board's Referces B. No. 5040/36-2 dated 23rd March 1937 and B--No. 5640/36-3 dated 13th May 1937.

The Municipal Council, Mangalore, has in its resolution No. 50 dated 6th September 1937 agreed to relinquish S. No. 11/1B of Kankanady (B) village, measuring 1 acre in extent which is required for the Parish --- Church. A copy of the resolution is enclosed.

2. A copy of the petition, received with the Boar reference R. No. 5040-36-3 dated 13th May 1937 was before the Council, when the subject was considered by i The petition is enclosed. With reference to the allegations made in it, I invite attention to paragraphs 5 to 7 of Mr. Crombie's report Ref. 4776-B3-36 dated 21st -- October 1936.

3. The petitioners have also submitted a memorial addressed to the Hon'ble Minister for Public Health protesting against the resolution passed by the Council on 6th September 1937. As the subject matter is connected with the question under consideration, I a submitting the Memorial through the Board as an enclosure to this report. For various reasons there h an unfortunate schism in the Catholic Community in --

Mangalore and it is particularly sorrowful to hear on --- enquiry that this opposition is actually engineered by some of the Roman Catholic clergy themselves. For the proper -- understanding of the matter I enclose a brochure on the subject of the Valencia Parish. I do not think that it would be right on the part of Government to encourage this opposition and would therefore recommend that the request made by the Bishop of Mangalore for the alienation of land (S.No. 11/1B) for the construction of a Parish Church may be favourably considered.

M. U. Wilson.

Collector.

Extract from the Proceedings of a meeting of the Municipal Council, Mangalore held at 5.30 p.m. on Monday the 6th September 1937.

******

xx xx xx

50. Read endorsement Ref.B3/4776/36, dated the 8th April 1937 from the Collector of South Kanara communicating a copy of the proceedings of the Board of Revenue, Madras, in respect of alienation of land for a burial ground and requesting to be informed whether the Council is willing to relinquish S.No.11/1B of Kankanady B village measuring one acre required for the Parish Church and petition from Poor Roman Catholics of Mangalore and Municipal Health Officer's report thereon.

Mr. M. Madhava Rao proposed "that the Council resolves to intimate to the Collector of South Kanara that it has no objection to relinquish S.No.11/1B of Kankanady B village, measuring one acre required for the Parish Church". This was seconded by Mr. C. L. Lobo.

The resolution was opposed by Mr. B.M.D'Souza.

The resolution of Mr. Madhava Rao was put to vote and carried by a majority of 16 against 4.

(Vice Chairman,
B.M.D'Souza.
R.R.Talcherkar.
Dr. M. Upendra Pai).

xx xx xx

(True Copy)

17.5.37
For Collector.

17.9.37

BOARD OF REVENUE
21 SEP 1937
MADRAS

To

The Secretary

Board of Revenue,

Madras.

Humble petition of the poor Roman Catholics of Mangalore.

Subject:- Burial Ground - Kankanady R.S.No. 11/A2A.

Respected Sir,

We the poor Roman Catholics of Mangalore beg to submit that the Board of Revenue asked the Mangalore Municipality whether they have any objection to assign one Acre of land out of the land R.S. - No. 11/A2A (reserved as a cemetry for the burial of Roman Catholics of Mangalore) to build a Church for the people of Valencia only. The matter came up before the Mangalore Municipal Council at its meeting held on 6-9-1937 and 16 Councillors voted for and 4 against and remained neutral. Out of the 16 voters in favour there were 7 Catholics. Mr. Venkatrsya Baliga, B.A.B.L., M.L.A., Municipal Councillor said at the meeting that the Municipality has no power to divest itself of the land which has vested in it as per Government Order No. 1174 - Revenue dated 20-12-1887 and 1887/3525 dated 22-10-1887 for a Charitable purpose.

It may be mentioned in this connection that the

result of the voting was brought about by brisk canvassing by some interested parties including Dr.L.P. Fernandes and the Bishop himself.

In passing we may mention in brief the --- history of the above case. Mr. K.R. Karant and Mr. B. V. Baliga proposed the following resolution:-

"That this Council does not approve of -- the present use of the burial ground in question by apportioning portions of it to different classes of Roman Catholic Christians, according to a graduated scale of payments or for certain institutions and restricting the user of different portions subject to the condition of payment and also to the use of the Mortuary Chapel standing on the plot as a Church even though it may be temporary and is of opinion that the present -- user of the plot in question is an infringement of the condition under which the plot was handed over for --- management to His Lordship the Bishop. This Council therefore requests His Lordship the Bishop to refrain from using the plot or the Mortuary Chapel contrary to the terms and conditions under which the management was made over to him."

The resolution was opposed by Mr. C. L. Lobo and supported by Mr. M. Madhava Rao, Mr. M.S. Sreshta and Mr. L.C. Pais.

After hearing Mr. J. M. Sequeira, M.A.,M.L., for the petitioners and Mr. P. D'Souza, B.A.,B.L., for His Lordship the Bishop and after a lengthy discussion, it was moved that the subject be put to vote.

Before the resolution was put to vote, Dr. N. Upendra Pai proposed that votes be taken by ballot. This was seconded by Dr. H. V. Adappa.

The above proposal was put to vote and declared lost - 10 voted for the proposal and 11 against - Then the resolution of Mr. K. R. Karant was put to vote and declared lost - 9 voted for the resolution and 14 against.

These petitioners contended that the user of the Mortuary Chapel existing on the Cemetery into a Parish Church and the constitution of the residents of the neighbourhood of the Cemetery locality by a decree of the Bishop into a parish and the holding of parochial services was a violation and infringement of the purpose for which the land was set apart as a Cemetery and the Bishop of Mangalore was made a Manager of the same, as being the head of the Roman Catholics of Mangalore. No doubt the Municipality by a majority resolved not to take any action but it may be noticed that the resolution noted above was discussed not in a spirit of legal discussion, but was governed largely by sentiment and other considerations which we forbear to mention.

Thereafter Mr. M. S. Shresta Ex-M.L.C., to make it appear to the people of Valencia where he is residing and to convert the Coup into an election stunt wrote to the Government along with others admitting -- that no doubt the conversion of the mortuary chapel into a parish church was an infringement of the grant under which the Cemetery was set apart and prayed for the condonation of the offence and also prayed that

one Acre of the site therein may be assigned to the Bishop for the church purpose. They had already led a deputation to Sir Charles Souter, when he was in Mangalore in October 1936.

The Government in its reply asked that the Church should be closed and that a guarantee should be given that the irregularity would not be repeated again. This was done by the Bishop.

Now on this question of the reference of the Revenue Board, may we say that the Municipality has under law no right to divest itself of the ownership of the land in question as it has been dedicated to a religious and charitable use and the dedication is complete and it has been acted on ever since the grant was made.

The legal position being thus and also in view of the fact that the Health Officer, Mangalore Municipality has written that some of the Roman Catholic Cemeteries (especially the Milagres Cemetery) are full and can no longer are made available to the public and also in view of the fact that the Roman Catholics of Mangalore are increasing in numbers, the present population being about 50 or 60 thousand in the town itself, we request you to disallow the resolution and maintain the status quo.

We beg to remain,

Your most obedient servants,

Felix de Mascarenhas

and 252 others.

Mangalore
10-9-1937.

Copy to
The Hon'ble Minister
to Local Administration,
Fort St. George,
Madras, and

The Hon'ble the Minister
for Public Health,
Government of Madras,
Madras.

The original has been submitted thro: the Collector of South Kanara with 253 signatures.

To

The Secretary

Board of Revenue,

Madras.

Humble petition of the Poor Roman Catholics of Mangalore.

Respected Sir,

In continuation of our petition dated 10-9-1937, we beg to state that in the plot S.No.11/1B now sought to be relinquished for the proposed church building, there are several graves of the deceased, buried on the plot for the last 48 years,(prior to 1935).

In spite of attempts at effacing, yet evidence in the shape of human bones, will be found, if graves are over-turned. It would be a desecration of the graves of these people interred there, if the plot is to be used for a Church building.

The bodies of three persons have been buried on the said plot during the past year 1935-1936, whose named are (1) C.Rego (2) Nicholas Aranha and (3) Mrs. Mary D'Souza. As a matter of fact, even high fees have been collected from the concerned parties to allow burials there

As regards the fact that the plot is barren and laterite, the fact that the above referred burials have taken place there, with high fees is proof of its choice for graves by the people and fit for that purpose.

Mangalore, }
13-9-1937. }

We beg to remain,
Your most obedient servants,
Felix Mascarenhas
and 252 others

Copy to:-(1) The Hon'ble the Minister for Public Health, Government of Madras, and

(2) The Hon'ble Minister to Local Administration, Fort St. George, Madras.

The original has been submitted thro: The Collector of South Kanara

To.

The Secretary,
Board of Revenue,
Madras.

From

The Poor Roman Catholics of Mangalore.

The humble supplementary petition of the poor Roman Catholics to our petition dated 13-4-1937.

Ref:-Valencia Cemeti..

Honoured Sir,

After constant adjournments the Mangalore Municipal Council discussed and ended the above matter on 6th September 1937, and the majority of the votes went in favour of His Lordship the Bishop of Mangalore in spite of our continued agitation. The Commissioner had the pleasure to intimate this information to us on the 18th instant as petitioners. We have to state that he or the Council has failed to intimate the adjournments, and without taking any explanation or any final grievance from the petitioner the Council has agreed to relinquish S.No. 11/1B from the paramboke burial ground R.S.No. 11/A-2A - hence we forward this our final grievance as a supplement to our original petition.

The Municipal Council has in their Resolution No. 50 (copy enclosed) dated 6th September 1937 agreed to the relinquishment of the plot S.No. 11/1B of Kankanady B. Village measuring 1 acre. If the Government were to approve of this resolution, we the poor Roman Catholics will be subjected to great oppression due to the heavy customary charges which would be imposed by

the Bishop's Government. But if the Government were to retain their right over this plot which has been enjoyed by the poor people for nearly 50 years as a free burial ground as in the case of other communities, we the poor folk will be greatly benifitted.

For the purpose of perfomming the burial rites an open chapel is needed and the object of the Bishop in having a Parish Church over this long enjoyed burial ground is only to tax the people. In as much as the majority of the other cemetries that the Government do not relinquish their right over this plot, but reserve it for the use of the poor as hitherto. We also pray and request your Honour not to allow any burials within the open mortuary chapel.

We understand that His Lordship has promised to give an equal portion of land in exchange at his cost elsewhere to the Municipal Council. We humbly point out to your Honour that this land promised by the Bishop could be used for the erection of the new Valencia Church. Therefore it is very queer why His Lordship is particularly anxious for the plot in the centre of the burial ground in R.S No. 11/A-2A. It is presumably to carry on his policy of exploitation as the other piece of land promised by the Bishop to the Council is too far off for exactions of money from his poor parishioners.

The cemetry in question has been granted from 50 years for burials only. We humbly beg your Honour to consider whether it is not an 'infringement of the use of this paramboke land'. We respectfully protest against an unwanted Church being built over old graves, a clear infringement of the right of 50 years. We humbly beg your honour to do the much needed justice to the poor from the exactions of the Bishop.

We beg to remain,
Honoured Sir,
Your most obedient servants,

Mangalore,
23-9-1937.

Insalvanha.

Joseph Sheeran

Julitsarrera

Meary Ferrao

Afonsa Ferrao

Timoth Ferrao

Mark of Julian Sheran

Mark of Joseph D'Souza

Louis Monteiro
Mark of Lawrence Fernandes

Edward Ferrao

Helena Fernandes.

Henry D'Souza.

Mark of John D'Souza

Harvey

Mark of Antue Fernandes

Mark of Marian Lobo

Baptist Ferrao

Sylvester Dias

Mark of Mona Fernandes

Hubert Barretto

L. D. Souza 146

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L. D. Souza

16 January

Thomas Fernandes

Sylvester Lobo.

John D Souza

Philip Southo

I. Corala

J B D'souza

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ಕೆಳಗೆ above

Minguel D Souza

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Joseph Fernandes

Torres. Gabriel. A.

Mark of Sylvester D So

ಸೈಲ್ವೆಸ್ಟರ್ ಡಿ'ಸೌಜ

Mark of Rosaire

ರೊಜಾರಿಯೊ ಮಾರ್ಕ್

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ಲೂಯಿಸ್ ಡಿ ಮಂಗಳೂರು

Mark of Simon C

Thomas

Anthony D Souza

Mark of Mary A

Mary Saldanha.
Victor Pais

J. G. Saldanha

మధినో ఫుంతో
లోంర్ష్ లోక్ బ్లి

B. Fequeiro

Fronco D. Souza
మోనో నిక్కిర
శ్రీబటో మోనో
దినస్ వెంగనా
ఉపిస్ నాళ్ళ పై
David Lobo
పేక్రిసో హేరు
Bazil Dsouza
శిబపోగ్గు
పెమి మోరో
అంకుబాపోగనో
John Lauro.
మోనో బాపోగనో
మోరిక్రుగుస్.

Mark of Baptist Matchado
పలిపుపెన్నో
Victor Pinto

Mark of Jacob Fernandes
Rodrigues. Julius.

Mark of Laurence Mendonsa
Witto.
J. Fernandes.

Albert Pinto
మనుబలుపారు గుండు
Alexander. Vaz.

Mark of Anthony D'Souza

Mingel Lobo

Peter H. D'Souza

Mark of Francis Silva

Louis D'Souza.

Francis Lewis

Marion Mathias

B. Mascarenhas

Abdrado

Xavier D'Souza

Victor Pais

Louis D'South

R.Dis.1476/37.

Proceedings of the Commissioner, Mangalore Municipality, Mangalore, dated the 16th September, 1937.

M. R. Ry. C.R. Karunakara Menon, Avgl., B.A.B.L.,

Read the following:-

(1) Collector's Endt. Ref.B3-4776-37, dated 8th April 1937, and the connected papers.

(2) Council's Resolution No. 50, dated 5-9-1937.

Order:-

In Council's Resolution No. 50 dated 6th September 1937, the Municipal Council has agreed to the relinquishm of the plot S.No. 11/1B of Kankanady 'B' Village measurir one acre.

Sd/- C.R. Karunakara Menon,

Commissioner M.M.

To

(1) Mr. N.A. Saldanha, with reference to this petitions dated 14-4-1937, 16-4-1937 and 5-5-1937.
(2) Mr. George Herbert, with reference to his letters dated 27-4-1937 and 29-4-1937.
(3) Mr. L.F. Rozario, Kankanady, with reference to his letters dated 7-8-1937.
(4) Revd. Fr.M. Menezes, Parish Priest, Valencia.
(5) Lord Bishop of Mangalore.

(True copy).

J.F.H

C.F. 16.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying ...		
When copied ...		
When examined...		
When signed ...		
When despatched.		

DESPATCHED
8-OCT 1937

SUBJECT :— Alienation - lands - (S. Kanara) - Mangalore Tk - Kankanady Brgc - S.no 11/1B - Parish church - A.C. Bishop of Mangalore.

READ AGAIN _____, dated _____ 19____.

" " _____ " _____ _____ 19____.

READ *ALSO* :—

of No. Confl 707/37 From the Colr of S. Kanara Rejce No. B3-4276/36 dated 17-9-1937-R

" _____ " _____ " _____ " _____ 19____.

" _____ " _____ " _____ " _____ 19____.

Order / Resolution / Ms. / Rout. No. B-5040/36-4 Rejce dated 2-10-1937.

The Colr is requested t
resubmit the disposal files of th
office sent herewith with the Boun
Rejce no B. 5040/36-2 of 23-3-37.

Jmt
5/10/37.

pp 63-64 of

Ref.B3-4776-36. South Kanara Collector's Office,

Mangalore, dated 11 - 10 - 1937.

RP 137 D 5073

From

M.R.Ry. Rao Bahadur M.V.Vellodi, Avl., B.A.,

Collector of South Kanara. B 5040/36

To

The Secretary,

Board of Revenue,

Land Revenue & Settlement,

M a d r a s.

Sir,

Alienation - Land - Mangalore Taluk -Kankanady (B) village - S.No. 11/1B - Parish Church - Roman Catholic Bishop of Mangalore - connected disposals - submitted.

Ref: Board's reference B.No.5040-36-4 dated the 2nd October 1937. 1514

I submit herewith this office disposal files D.Dis. Nos. 2175/36 and 3432/35 as requested by the Board.

For Collector.

12.10.37

(Copy Submitted)
15

35208
5212 5040

The Collector and District Magistrate,
South Kanara.

As(LA)

1938 Secy.
This is only a copy of a petn addressed to the Collr. This may therefore be lodged.

Humble petition of Milagres Parishioners of Mangalore praying that you may be pleased to report to the local Government that the resolution of the Mangalore Municipality dated 6-9-1937 to the effect that they --- have no objection to assign one acre of land in R.S.No.11/A2A to the Bishop of Mangalore, is illegal, ultra vires, and ought to be expunged from the minutes of the proceedings of the Municipal Council.

S i r,

From the proceedings of the Mangalore Municipal Council dated 29-1-1888 it is clear that in G.O.61 M.Mis/ 23-1-1888 Government sanctioned the -- transfer to the Mangalore Municipality the above plot required as a burial place by the Roman Catholics. The Bishop of Mangalore was ipvited to state by the Council whether he was willing to take over the management of the Roman Catholic Cemetery subject to the conditions that he encloses it by a substantial wall and that the provisions of the Act IV of 1884 were carried out to their full extent. The plot was sanctioned to be granted to the Municipal Council by its order dated 20-12-1887 No.1174 - Revenue.

From 1888 till about the year 1935 the Bishop managed the Kankanady Burial ground otherwise known as Byare palke cemetery and recently Valencia Parish. The then Bishop of Mangalore in his letter dated 15-3-1888

had stated that he is willing to take over the place assigned for the Roman Catholic cemetery subject to the condition.

The Board of administration of the Milagres Church Board was made the Manager of the new cemetery by the Bishop of Mangalore as can be seen from the fact that it is they who resolved on 17-9-1890 to take steps to take possession of the Municipal authorities the piece of ground allowed by Government for the new --- cemetery (i.e.,11/A2A). Further it is seen that the aforesaid cemetery was used as such by both the parishes of Milagres and Rosario was given up to the exclusive use of the Milagres Parishioners it being more conveniently situated in Milagres Church jurisdiction and it was also considered desirable that the responsibility of maintaining by enclosing the ground and building a chapel in it for the performance of funeral services. Questions arose as the finally surrendering the right of one or the other parish in the cemetery at meetings of the Boards of the Parishes aforesaid and on 30-8-1903 it was resolved by the Milagres Board that as the present burial ground attached to the --- Milagres Church is almost filled up an application for a suitable place for burial ground of about 2 acres or more in extent. The Milagres Church Board had left the question of giving up a site for burial to the Rosario Church to the arbitration of His Lordship the Bishop of Mangalore. Whether the matter ever came up for arbitration as suggested, is not known but one -- fact is certain that the Byarepalke cemetery ~~became~~ became an adjunct of the Milagres Parish.

On 22-7-1923, the said Board resolved to put

up a wall around Kankanady cemetery.

Some of the Catholics of Valencia, Mangalore joined together and protested to the Collector of S.K. against the levying of burial fees and the construction of a chapel by the Roman Catholic priest in Valencia and the Collector after perusing the ~~p~~ reports of the Rev.Divisional Officer, Mangalore, L.Dis.3254/35 dated 8-9-1935 and 3864/35/B1 of even date and the petition of Mr. M. S. Sreshta Ex-M.L.C., and C.C.S (Rtd) said that the G.O.1174 dated 20-12-1887 handing over the land to the Municipality makes no stipulations about free -- burials and the contentions of the petitioners about free burials are not borne out by Government records. But if the mortuary chapel is developed into a Parish church then there is a breach of the conditions; much more if any priest's residence is erected there. The land was given free of assessment for a ~~pe~~ specific--- purpose. The Bishop cannot vary the use of the land without reference to Government..... In the circumstances the Collector cannot comply with Mr. Sreshta's request to hand over a part of the land for the new 'Valencia Church'

The Mangalore Municipal Council in its proceedings dated 30th March 1936 decided that as His -- Lordship the Bishop of Mangalore had stated that the mortuary chapel has not been converted into a parish church no action was necessary. The mortuary chapel was opened on 10-2-1935 and the parish was declared a church on 1-3-1935 when the Commissioner Mangalore Municipality wrote to the Bishop a letter dated 6-8-1936 ref.C.295/D2-36, asking for information (1) whether the mortuary chapel is being used as a Parish church or is converted into one either permanently or temporarily

and (2) if it is a fact that fees are charged for burial and if so, to furnish to the Municipal Council all --- accounts pertaining to the collection of fees for burial. The Bishop who had in his letter dated 4-10-1935 said that he was given to understand that the plot was given unconditionally now wrote saying that the mortuary chapel previously constructed is also used for parochial services ~~&~~ temporarily pending construction of a new parish church and also that a small extent 44 cents has been allotted for burials of the paying section of the Valencia Parish as well as for the burials for the Catholics of the whole of Mangalore seeking burials there on payment. This does not take away the right of the poor Catholics of Valencia or of the whole town of Mangalore from claiming free burial in the cemetery.

Another petition signed by a number of people of Valencia Parish again came up for discussion before the Mangalore Municipal Council, and it was taken up for discussion along with a resolution of Messrs. K. R. Karanth and B. V. Baliga on 17-7-36. After a spirited .scussion in which spokesman on behalf of the Bishop ıd the parishioners addressed the Councillors, the)uncil resolved not to press the matter. The Council ıs al~~&~~most divided, and sharp ~~&~~ exchanges took place.

The argument of these petitioners was and ven now is that the use of the mortuary chapel as a ırish Church constitutes an infringement of the terms ıder which the land was vested as a burial place and ınded over to the Bishop as a manager and that adequate :eps should be taken to contest his actions and that -- ırther the Bishop had no right to assign the Byarepalke emetery to the people of Valencia only when it was ---

granted for the burial of the Roman Catholics of Mangalore. No doubt the Bishop once said that the mortuary chapel was not used as a Parish church but later on view of his own decree dated 1-3-1935 consisting the Valencia households into a Parish he could not consistently maintain that position. Secondly he even went to the extent of saying that a portion of the burial place only was reserved for paying --- burials of Roman Catholics of Mangalore and another portion for Valencia and another portion to lepers. It may be noted that the Bishop admitted the use of the mortuary chapel into a Parish Church only after the petitioners above named, produced abundant material before the Municipal Council that after the decree of the Bishop, a Parish Church was constituted and parochial services held there, Rev. Fr. Monthu Minezes being the first Parish Priest.

It is respectfully submitted that the decision of the Municipal Council was hailed with delight by some Zealots in that Church has triumphed and -- that the enemies of the Roman Catholic Church have been scotched if not completely wiped out and in the Parish Church of Valencia Te deum (thanks-giving service) was sung to give thanks to God over this event.

As events would have it some of the prominent citizens of Valencia wrote directly to,Government admitting that parochial services were held in the mortuary chapel and that this violation may be excused and a plot one acre in extent may be granted to the Bishop for building a Church. Before the Mangalore Municipal Council the Bishop's spokesman had stated that services were being held in the mortuary chapel pending

pending constitution of a Church elsewhere and it was this undertaking that had influenced largely the decision of the Mangalore Municipal Councillors. Now these prominent citizens covertly wrote to Government as aforesaid.

Sir Charles Souter, the Revenue member to the Government of Madras had come on a visit to Mangalore in October 1936 and some of the members of the Catholic Association (without a resolution or mandate of the --- General Council of the Association)* represented to the Revenue member their desires in the matter. It is learnt that he said that Government would look into the matter.

Soon afterwards on the admission of the prominent citizens aforesaid, the Bishop was asked to close the Church and give an undertaking that the irregularity would not be committed again. The Bishop after consulting his Vakils and advisors gave the required undertaking and closed the Church and shifted it to a private residence.

The next stage was a reference from Government to the Municipality as to whether they have any objection to the assignment of one Acre of land to the Bishop for building a Church in Valencia Cemetery. The Muncipality after several adjournments discussed the matter. Mr. B.V. Baliga spoke first pointing out the dangers that would follow if any hasty sentiment guided resolution was --- passed and strongly doubted whether the Council had the power to divest itself of the land vested in it for a charitable and religious purpose and even broadly hinted at Council being exposed to litigation. He in other -- words was of the same opinion the Kumbakonam Municipality over the license for the construction of a convent in

the Town extention which was dropped by the Council as there was one section for and one section against the grant of license and left the matter to the parties to agitate in a Civil Court. This ought to have been the proper attitude here also, but the brisk canvassing of the supporters of the Bishop and his influence won its way in the Municipal Council and it resolved to give up the one acre of land to him for church building purpose provided he agreed to pay its value if the Council required the site later on.

This last proviso is indeed stultifying as we are not able to understand how the Council can compel the Bishop to carry out his promise couched so vageuly and also in view of the fact that acquisition under the land acquisition act does not depend upon the consent of parties, much less on undertakings to pay the price and the only way to acquire the plot is under the Land Acquisition scheme and in that case the promise to pay is supererogatory. The whole question is one of prestige and expediency for the Bishop and his supporters and one of sacred moral and legal principle to the Roman Catholics of Mangalore.

These signatories humbly submit that before the question of the grant of site to the Bishop, can be considered there are these points to be considered.

(1) The Bishop as Manager has violated the terms of the grant by converting the mortuary chapel into a parish church. He has admitted his act.

2) He has violated the grant by appropriating the cemetery granted for the burial of the Roman Catholics of Mangalore to the Valencia Parish only.

(3) He has violated the grant by collecting through his Parish Priest iniquitous burial charges for the professed purpose of maintaining it whereas the accounts would show that the fees have swelled some other coffers. Till 1935, it was a free burial ground. That is how no action came to be taken ere 1935.

It is a matter of grave import whether a church building can be erected on a place where there are graves of departed Roman Catholics. During the year 1935-1936 three persons viz., one C. Rego, Nicholas Aranha, Mrs. Mary D'Souza have been buried there. High fees have been charged for these graves and the argumen that the soil is rocky and hence unsuitable for burials is displaced. Even otherwise there are several graves of departed Roman Catholics for the last 48 years and if the graves are exhumed the bones found therein would show that the place is full of graves and it would be a desecration of the graves if a church were to be buil there and these graves subjected to the pickaxe and spade, as is usually done when raising a new building.

Moreover the grant of the land being for a specific purpose it is to be highly illegal if the Government or the Municipality can divert itself of the ownership of the land in respect of which a user for religious and charitable purpose has been created. The dedication of the land for the said purpose is -- complete and it cannot be departed or deviated from, in any particular for any purpose foreign to the --- grant. The rights vested in the Roman Catholics of Mangalore are violated by this illegality and the --- Municipality cannot give it the cloak of validity by asking

asking for payment when the relinquishment itself is a ultra vires and beyond its powers. Moreover the terms of the grant are clear and specific and do not and cannot admit any other construction to permit the relinquishment or even the acceptance of the proposal of the Bishop that he is prepared to grant another acre of land in exchange for the acre of land sought for by him, does not make much meaning. The Bishop has got large estates in and about Valencia and surely there is no rule that a church and a cemetery should co-exist or exist side-by-side in contignity or that the church should be built in a cemetery. It has to be considered how the location of a parish church in a cemetery which church is used as a church also for marriages, processions, festivals etc., and the yard of the church for dramas and other function could be considered along with the sacred character of a cemetery which is a monument not of festivity and glory, but of the pain caused to the several bereaved families where departed members lie there in eternal rest.

We beg to remain,

S i r,

Your most obedient servant,s

(Sd) J. B. Lobo
and 149 others

Mangalore,
17th October 1937.

Copy submitted to:-

1. The Honourable the Minister for Public Health, Madras.

2. The Honourable Minister for Local Administration, Madras.

3. The Secretary, Revenue Board, Madras.

4. The Commissioner, Mangalore Municipality, Mangalore.

for reply.

M. J. Britto
Falnir
Mangalore

(True Copy) E. Lobo

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying		
When copied		
When examined	10/	
When signed		
When despatched.		

SUBJECT:— Alienation - Land - (S. Kanara) Mangalore Tk - Kankanady Bra S. No. 141 - Parish Church - Roman Cath Bishop of Mangalore.

READ AGAIN RESTORED 19 NOV 1937, dated _____ 19____.

" " _____ " _____ 19____.

READ ALSO:—

1 of No. B. 5740 From the Coll of S. Kanara No. 4776-36-A3 dated 21-12-1936.

53 " B. 575 " do " do - 26.1.37 " 19____.

55 " confdl 707 " do " do - 17.9.37 " 19____.

" " " " 19____.

Order ~~Ms.~~ / ~~Resolution~~ Rout. No. B 5740 / dated 17-11-1937.

In their order no. 141 Revenue, dated 20-12-1862 they sanctioned the transfer of S. no of Kankanady Village, Mangalore taluk free of assessment to the Municipal comm Mangalore, for use as a burial ground for the Roman Catho Christians. In April 1888 the Municipal council hand over the land to the Roman Catholic Bishop of Mangalo for management subject to the conditions that he shou ~~enclose it with a~~ construct substantial

warrants that the provisions
of the Madras Act IV of 1884 should
be fully carried out by him to their
full extent. In March 1935
some persons of the Roman
Catholic Church erected a
mortuary chapel on the land
I was visiting it as a church.
The Bishop was now proposes to
dedicate it as a parish church
and to construct a parish
house on the land and has
applied for the alienation of the
land (as detailed in the margin)
A section of the Roman
Catholics has objected to this
proposal on the ground that
the construction of the chapel
on the land is a violation of
the grant & that the conduct
of the parish services in the
cemetery is irreverent.

The Board consider that
A mortuary chapel is an
accessory to Christian burial
& the Board therefore considers that
that its construction
sub-division of the land was and
a violation of the grant that

~~Treat the case of this subdivision~~
~~That the case as~~
~~as to the site of a parish~~
~~Church is a violation. But the~~
Bishop has now ~~same~~ stopped the
parish services in the chapel
& has also given an assurance
that the services will not be
resumed
~~expected~~ there. The Board consider
that ~~the subdivision of~~ S. No. 11/1A and
11/1C of the land may continue to be
in the management of the
Bishop. There is no necessity to resume
them from the Municipal Council & to alienate them to the Bishop.
2. The Municipal Council
has now relinquished ~~the~~
~~subdivision~~ S. No. 11/1B which is required
by the Bishop for the construction
of a parish church. The ~~section~~
~~office~~ Roman Catholics who
originally objected to the construction
of the chapel in S. No. 11/1A
have put in a petition to the
Hon'ble the Ministers for Public
Health thro' the Collr objecting
to the relinquishment of the land
by the Municipal Council and
praying for the cancellation of
the Council's resolution. The
Collr reports that for various

as it was made
ly for use of the land
s a burial ground. At
instance of the Bishop he

(vide pp. 10-15 ante)

p. 403 ante

(vide pp. 45-121 ante)

(vide p. 55 ante)

there has been an unfortunate schism in the Catholic community in Mangalore and that the opposition from a section of the Catholics has actually been engineered by some of the Roman catholic clergy themselves. He is of the opinion that the opposition should not be encouraged by the Govt and recommends that the application of the Bishop for the alienation of the land for the construction of a parish church ~~may be rejected~~ decide the matter. The Board ~~agrees with~~ the Collector's proposals ~~in toto~~ and recommends that the objections of the petitioners may be overruled by the Govt ~~and the land alienated~~ in favour of the Bishop

3. On receipt of the Govt formal proposals for the alienation of the land will be called for from the Collector and submitted to the Govt for sanction, as the market value of the land amounts to Rs 12

18/11 — 18/11/37 — 18/11

18.11.37

MANGALORE, 10th DECEMBER, 1937.

The Honourable The Minister
for Public Health,
Government of Madras,
Madras.

Thro'
The Collector of South Kanara,
Mangalore.

From Poor Roman Catholics of Mangalore.

Ref: Petitions dated 10..9.37 and 13..9.37 re assignment of R.S. No.11 A/2 A of Kankanady Village for burial ground.

We submit herewith the following enclosures viz:-

(1) True copy of the Decree of the Bishop of Mangalore dated 1.3.1935 constituting Valencia into a Parish Church (to refute the contention of the Bishop of Mangalore that he has not converted the Mortuary Chapel into a Parish) vide Bishop's letter dated 25. 10. 35 to the Mangalore Municipality.

(2) True copy of the Proceedings of the Bishop of Mangalore dated 3.7.1935 to Mrs.Bridget Mathias and 14 others- as evidence of point on para supra.

(3) True copy of the Proceedings of the Bishop of Mangalore dated 8.6.1936 regarding Valencia funeral in Milagres church cemetary.

(4) True copy of the letter of Mr.C.A. Saldanha and others of Valencia Parish to the Commissioner, Mangalore Municipality dated 13.7.1936.

(5) True copy of the Proceedings of the Collector of South Kanara (Paras 1,3, & 5) dated 25.9.1935. Particular attention is drawn to para 5 therein.

At the time of the inspection of the Valencia burial ground on or about 15th November 1937, the Commissioner observed that there were two mounds denoting the burials that had taken place. The other graves have been levelled so that their traces are not now seen.

The Commissioner was expressing a view that the Milagres Church people would prefer to have their burial place nearer. There is no basis at all for such apprehension; nor there is any private or Government vacant land suitable for burials near Milagres.

There are as a matter of fact gaps in the walls enclosing the Cemetary and a wretched bamboo fencing is put up as an apolo for a fence. The heavy burial charges taken from the people do not go to maintain the Cemetary but to enrich others. This is a positive fact.

We beg to remain,

Sir,

Your most obedient servants

Helix Mascarenhas

for and on behalf of 2520 of petitioners (Poor Roman Cathos of Mangalore)

Copy submitted to
The Secretary,
Board of Revenue,
MADRAS.

Address for reply.

Helix Mascarenhas
C/o Mr. E. A. Lobo
Jalnir,
Kankanady P.O.
S. K.

DIOCESE OF MANGALORE

Bishop's House

No.712/34-35. Kodiyalbail.

D E C R E E

of

The Erection of Nagore, Valencia and Bajal Stations.

Whereas, owing to the continued influx, during the pas years, of a large number of Catholic families from the interior District into, especially, the eastern outskirts of the City of Mangalore, as also natural increase, the Catholic population of place has increased to such an extent, that what was even long a contemplated by one of Our Predecessors, Bishop Paul Perini of h memory, viz. the establishment of new parishes in Kankanady and can no longer be delayed without serious detriment to the spiritu interests of the people concerned.

Having at the same time received various representatio from people of the place, the effect that their present Pastors all their admirable zeal for souls are unable, burdened as they a with the heavy and absorbing work of their large parishes, to att adequately to the spiritual need of themselves who live at consid distance from them, with the result that the rising generation s very wanting in the knowledge of Christian Doctrine.

Bearing in mind also the great inconvenience which h expressed to us as being felt by them by the different religi who possess or have charges of Chapels about the place, that, on Sundays and Feastdays, the rush of the people to the Chap

DIOCESE OF ATLANTA

Manor's Home

Society

Daily Stations
The Erection of Baptre, Valencia Inc

Masses. Owing to the continued influx, during the past
years, of a large number of Catholic families from the interior of the
district into, especially, the eastern outskirts of the City of
Pontchartre, an urgent demand, the Catholic population of a
large but increased population de exterior, that was even locally a
centralized by one of Our Predecessors, Bishop Joseph Portia of Bal
Harbor, via, the establishment of Mass Stations in Pontchartre and Les a
ne Ho Tourist, conducted without serious detriment to the spiritual
interests of the people concerned

Having at the same time received various representations
from people of the place, the effect that under present restric
tion their numbers even for Sunday are limited, Pursuant to duly ins
ructions to the spiritual need of themselves who live at consider
able the heavy and unsettling, work of their Parish Priests, to atte
nd Mass on Sundays and Holidays of Obligation, we direct
attached from them, with the result that the Holding Consecration che
rishes Mass on Sundays and Holidays of Obligation be
gin in Bay also the Great Inconvenience which has
existed to the same detriment of the Christian Doctrine.

ed Carmel, the Chapel of the Sisters of Charity and the rtuary Chapel is such that trying to provide for their spiritual eds causes notable inconvenience in the observance of their time- ble and in the case of the latter two Chapels deprives of sufficie commodation the inmates themselves for whom the Chapels are eliminarily intended, with the necessary consequence that the thorities have been trying to exclude or regulate the coming of pe their Chapels; the examples of which are- the Cloistered Carmel apel, being closed to the public since July 16, 1930, except for ose too old or weak to walk to a distant Church; the Seminary Cha t admitting the public for 5.30 o'clock Mass; and the Sisters of harity intending to close their Chapel to the public altogether on ndays.

Taking, likewise, into consideration what the Superior esuits, entrusted with the Seminary, has urged upon us about th ecessity of the Seminarians having a Chapel all for themselves hey can use undisturbedly and at the same time it being highly reasonable, which is also the unanimous opinion of the Diocesan Consulators that the existing Seminary Chapel which was directly int ed for the use and convenience of the Seminarians and suitably aran for their tasteful exercise in solemn liturgical functions, shoud b restored to its direct and primary use and other arrangements should be made for the benefit of others who take undue advantage of

And in fine having placed all the above matters befo Diocesan Council and heard their advice on them as also with r to the plans prepared by one of the Consultors deputed by us f purpose of suggesting suitable divisions for new parishes to b

in the aforesaid places, andhaving also heard the Parish Priests whose territory or pupulation was in any way going to be affected by the intended changes and seriously considered all that they had to say and also all that was represented to us by some of the people of the place either orally or by written petitions.

We, after mature deliberation for the Glory of God and the benefit of our Diocese and the goods of the souls entrusted to our care have resolved to establish and do hereby establish and declare duly established the following two Chaplaincies which in due course will be constituted into Parish Churches and one Parish.

The first is the Northern Chaplaincy, situated at Nagore, Kankanady, near 3½ mile stone on the Kankanady-Farangipet Road and dedicated to the Guardian Angels.

The territory of this Nagore Chaplaincy comprises the following boundaries:- On the North- S.F. No.14 and the Maroli Stream; on the East- S-F. No.12, Maroli Village eastern boundary, Kankanady Village North-Eastern boundary till 3 7/8 mile-stone, the Padil Road till 4 2/8 mile-stone, the Alpe eastern boundary inclusive of St.Joseph's Ward of the Cathedral Parish; on the South- the Netravati River till the Jeppo Bajal Ward now given to Bajal-Chaplaincy, the West- the Jeppo Bajal Ward and the Maroli Stream.

The second is the Central Parish Church, situated at Valencia and dedicated to St.Vincent Ferrer.

The territory of the Valencia Parish comprises the following boundaries: on the North- the Falnir-Kankanady Road from Padvolpalke bifurication road to the Maroli bride near ~~2 6/8~~ 2 6/8 mile-stone, on the East- the Maroli-Kankanady stream till the Bajal Ward: on the South-

the continuation of the said stream, the northern boundary of S.F. Nos.78, 77 and 73 along the lane by the Southern boundary of St.Anto Jeppo property; on the West- the Jeppo Road continued by Silva Road and Padvolpalke Road connected by the compound wall of Mr.F.L.Silva' tenant's wall meeting the Padvolpalke wall and road.

From this jurisdiction, the St.Antony's Jeppo Institute, the Olivet Institute, the Cloister Carmel and Fr.Muller's Institues are xempted.

The third is the Southern Chaplaincy, situated in Jeppinamogar illage and dedicated to St.Rita of Cassia.

The territory of St.Rita's Chaplaincy comprises the following boundaries:- On the North- the Southern boundary of Valencia Parish; on the East- the eastern boundary of Jeppo Bajal Ward; on the South the Netravati River; and on the West- the Road from the Jeppo Ferry running by the West of Gujjarkere Tank, St.John's Higher Elementary School, the railway crossing bridge road, along the new road that passes through the non-catholic and Cathedral new cemeteries till the Southern limit of St.Antony's Jeppo property.

This Decree or rather portions of the Decree as far as they affect the Parishes of Cordel, Bendur, Milagres and Cathedral is to b promulgated in the respective Churches on Sunday March 3, 1935 and will take effect from the said date.

Given at Mangalore from our Episcopal Residence on first March 1935.

Joseph L.Pais
Pro-Chancellor.

Sd/- V.R. Fernandes.
Bishop of Mangalore.

(True Copy)
(Al.

DIOCESE OF MANGALORE.

BISHOP'S HOUSE. Kodiyalbail.

No.9/35-36.

Proceedings of the Bishop of Mangalore,

Dated July 3, 1935.

Ref: Petition of Bridget Mathias and fourteen others.

Having taken into consideration all that the above petitioners had to say in writing and orally, subsequent to the erection of the Parish of Valencia and up to date explaining why they should not be attached to the new Parish but restored to their original parish, we find no satisfactory reason for the suggested modification of the boundary but feel convinced that it is in the spiritual interests of the Parish as well as of the petitioners themselves that the boundaries should remain as fixed by the Decree of Erection dated March 1, 1935.

MANGALORE,)
July 3, 1935.)

Sd/- V.R. Fernandez
Bishop of Mangalore.

To

Mrs.Bridget Mathias and others.

COPY.

DIOCESE OF MANGALORE.

Kodialbail

Bishop's House

Proceedings of the Bishop of Mangalore
Dated June 8, 1936.

Ref. Letters of Mr. Leo.P. D'Souza, dated 15th May, 27th May and 6th June 1936 regarding Valencia funeral in Milagres Church.

According to the practice of the Diocese an amount equal to the one paid to the Parish where funeral is conducted is also to be paid to the Parish in which death of the parishioner occurs, without the obligation of attending the funeral.

As admitted by the petitioner an amount of Rs.12/- has been paid to Fr. Menezes and the balance is due to him which may be paid soon.

The obligation of attending the funeral apart, Fr.Menezes was not even informed of the hour when the funeral was to take place.

Hence the complaint has no locuse standi.

Mangalore, June 8, 1936.

Sd/.V.R. Fernandes.
Bishop of Mangalore.

Communicated to:-

Mr. Leo. D'Souza, Zenith Cycle Stores, Kankanady P.O.

Mangalore, 13th July, 1936.

The Commissioner,
Mangalore Municipality,
Mangalore.

S i r,

In continuation to our last petition dated 19.5.36, we beg to submit herewith our explanation dated 12.7.36 in connection with the Bishop's remarks dated 4.7.36 on our above referred -- petition as regards St. Vicent's Church Valencia.

We beg of you to kindly place this our explanation before the Council at the next meeting along with our last petition dated 19-5-36.

Herewith a Photo of the St. Vicent's Church and a copy of the Bishop's Decree dated 1.3.35 are produced, which form part of our explanation, which kindly lay before the Council.

Thanking you,

We beg to remain,

S i r,

Your obedient servants,

Sd/ C.A. Saldanha.

Address for information:

C.A. Saldanha
C/o Post Master,
Kankanady P.O.

Proceedings of the Collector of S. Kanara
W.Dis.3432/35 of 25-9-35.

1. In their order No.1174 Rev. of 20-12-1887 the Government sanctioned the transfer of R.S.No.11A2A of Kankanady Village measuring 5 acres and odd to the Municipality free of assessment for use as a burial ground to Roman Catholics. Some of the Roman Catholics f Kankanady Village have represented to the Collector that under the orders of the Bishop fees are being levied for the burial of the dead in that plot and that a mortuary Chapel has been constructed on the plot and converted into a permanent parish church. They further represent that under the orders of the Bishop the resident parish priest is arranging to extend the mortuary chapel into a parish church and to construct on the burial ground a parochiol house for the parish priest. The petitioners protest against the above action of the Bishop.

*** *** ***

3. But if the mortuary chapel is developed into a parish church then there is a breach of conditions. Much more if any priests residence is erected there. The land was given free of assessmen for specific purpose. The Bishop cannot vary the use of the land without reference to Government.

4. *** *** ***

5. In the circumstances Collector cannot comply with Mr. Shreshta's request to hand over a part of the land to the new "Valencia Church".

*** *** ***

BOARD OF REVENUE
11 FEB 1938
MADRAS

GOVERNMENT OF MADRAS

Revenue Department.

SECY.
11 FEB 1938

From Lr.No.5718-I/37-2, dated 8th February 1938.

SUB: Alienation - Land - (South Kanara) - Mangalore Taluk - Farmkal by V. village - S.No.11/1 - Parish Church and burial ground - Roman Catholic Bishop of Mangalore.

REF: From the Board of Revenue, No.B.5460/36-5, dated 17th November 1937.

As regards S.Nos.11-1-A and 11-1-C of Farmkaly Village, Mangalore Taluk, the Government consider that the proper procedure will be to obtain a relinquishment of the lands by the Mangalore Municipal Council and then to alienate them to the Bishop of Mangalore for use as a burial ground and a Chapel attached thereto. The Board of Revenue is therefore requested to submit proposals for alienating the lands after obtaining the formal relinquishment of the lands by the Municipal Council.

2. The Government accept the Board's recommendation that the land in S.No.11-1-B may be alienated in favour of the Bishop for use as a parish church and a parish house. The Board is requested to submit the necessary alienation proposals.

T. N. S. Mani,
Under Secretary to Government.

To the Board of Revenue (Land Revenue and Settlement).

Forwarded.

(By Order).

V. Ramaiah

Superintendent.

155 (Ms. J. F. H.)

17-4-38

O.M. 10.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying		
When copied		
When examined		
When signed		
When despatched.		

DESPATCHED 21 FEB 1938

SUBJECT:— Alienation - land - (S. Kanara Mangalore Tq - Kankanady Revg - Snos 11/1 A etc - Parish church & burial ground - R. Bishop of Mangalore -

READ AGAIN ..... dated ..... 19....

" " ..... " ..... 19....

READ ALSO:—

55 of No. Conf. From the Collr of S. Kanara, No. Revg B3-4776-36 of 17-5-37 - A

157 of " B. 1188 " " Govt. R.O. Memo " 5718 F/37-2 of 8-2-1938 - A

" ..... " ..... " ..... " ..... 19....

Order Ref Ms. No. B. 5040/36-6 dated 17 - 2 - 1938.

Resolution - Rout.

by letter Govt. rem: B 3024 of 4-38 dated

CM 17/2

Communicated to the Collr of S. Kanara.

2. The Collr is requested to obtain the formal relinquishment of S. nos 11/1 A & 11/1 C by the Mpl council at an early date & to submit his proposals for the alienation of these plots and also of S. no. 11/1 B, at an early date.

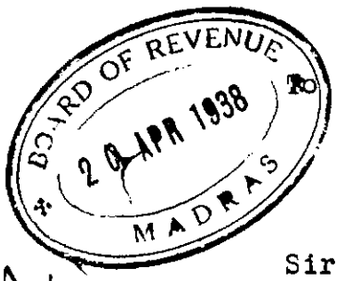
14/2

15-2-38

Ref.C.1110-38-B3. South Kanara Collector's Office,
Camp: Pallikere, 7th April 1938.

From

M.R.Ry. Rao Bahadur M.V.Vellodi, Avl., B.A.,
Collector of South Kanara.



To

The Secretary to the Board of Revenue,
Land Revenue and Settlement, Madras.

Sir,

ALIENATION - Land - Mangalore Taluk - Kankanady B village - S.Nos. 11-1A, 1B, 1C - Parish Church and burial ground - Roman Catholic Bishop of Mangalore - proposals - submitted -

Ref:- Board's Ref.B.No.5040-36-6 dated 17.2.1938.

****

I enclose herein a copy of resolution No.23 dated 14.3.38 of the Mangalore Municipal Council relinquishing to Government unconditionally S.Nos. 11/1A and 1 C of Kankanady 'B' village, Mangalore Taluk and applications for the alienation of land in S.Nos. 11/1A, 1B and 1C and revenue in respect of S.No.11/1B of Kankanady 'B' village in favour of the Roman Catholic Bishop of Mangalore Diocese. I do not propose the alienation of land revenue in respect of S.Nos. 11/1A and 1C as fees for burials are levied. The mortuary chapel has been restricted to S.No. 11/1A as it has already been constructed in this plot.

2. The plots do not contain any tree-growth but they contain improvements effected by the proposed alienee as detailed in the list enclosed. As the land is intended to be used for religious purposes, the question of collecting market value need not be considered.

3. I enclose a copy of the letter dated 2.4.38 of the Bishop accepting the conditions offered in my letter dated 25-3-38 (copy enclosed). I also enclose a copy of the suit notice received by me in this matter. I have recorded it.

For collector

P 205 of

Encls: 1. Copy of resolution No.23/14.3.38 of the Mangalore Municipal Council.

3 of 2. Applications for alienation of land.

1 3. " revenue.

1 of 4. List of improvements.

1 of 5. Copy of Collector's letter dated 25.3.38.

1 of 6. " Bishop's letter dated 2.4.38.

1 of 7. " Suit notice dated 31.3.38 C.No. 1974-38-A3.

Application for the alienation of Land in which the proprietary right belongs to the State.

District: South Kanara.

******

1. Description and area:	S.Nos.11/1A, 1B & 1C of 84 B. Kankanady village in Mangalore Taluk, measuring 1.10, 1.00 and 3.63 acres respectively standing registered as Burial ground Poramboke.
2. Market value:	S.No.11-1A - Rs.1375/-. 1B - Rs.1250/-. 1C - Rs.4537.8.0 Rs.7162.8.0 excluding cost of improvements belonging to the alienee (Rs.2680/-) as per list enclosed.
3. Alienee and purpose of alienation:	The Roman Catholic Bishop of the Diocese of Mangalore. S.No.11-1A - Burial ground and mortuary chapel. " 11-1B - Parish Church and Parochial House. " 11-1C - Burial ground.
4. Collector's remarks:	Recommended.

South Kanara Collector's Office,
Mangalore, 9th April 1938.

For Collector.

Application for the alienation of Land Revenue payable to Government.

District: South Kanara.

******

1. Description and area:	S.No.11/1B measuring one acre in 84 B Kankanady village, Mangalore Taluk, standing registered as Burial ground Poramboke.
2. (a) Annual assessment at Re.1/- per acre.	Re.1.0.0.
(b) Capitalised value (25 times assessment).	Rs.25.0.0.
3. Alienees and purpose of alienation:	The Roman Catholic Bishop of the Diocese of Mangalore. Parish Church and Parochial House.
4. Collector's remarks:	Recommended.

South Kanara Collector's Office,
Mangalore, 9th April 1938.

For Collector.

List of improvements existing in S.Nos.11/1A,1B & 1C of 84 B Kankandy village, Mangalore Taluk.

******

		Estimated cost. Rs.as.ps.
S.No.11-1A	1. Tiled mortuary chapel building.	2500. 0. 0
	2. Mud walls on two sides	50. 0. 0
S.No.11-1B	1. Mud walls	25. 0. 0
	2. Wooden cross with stone pedestal	30. 0. 0
S.No.11-1C	Mud walls	75. 0. 0
		2680. 0. 0

Rs. Two thousand six hundred and eighty only.

South Kanara Collector's Office,
Camp Pallikere, 7th April 1938.

For Collector.

11.4.38

Extract from the proceedings of the Mangalore Municipal Council, dated 14th March 1938.

******

xx xx x

23. Read letter Ref.B3-1110-38, dated 27.2.1938 from the Collector of South Kanara requesting to send a copy of the resolution of the Council relinquishing plots 11/1A and 11/1C of Kankanady B Village also to alienate the same in favour of the Bishop of Mangalore for use as a burial ground and a chapel attached thereto.

The Council relinquishes to Government the plots S.Nos. 11/1A and 1C of Kankanady B village unconditionally for alienation of the same in favour of the Bishop of Mangalore for use as a burial ground and a chapel attached thereto.

xx xx x

Sd/- K. Vittal Shetty,
Chairman, M.C.

/True Extract/

Municipal Office, Mangalore,
Dated the 17th March 1938.

Sd/- xx xx xx
Commissioner.

/True Copy/

For Collector.

Urgent.
Ref.C.1110-38-B3.

South Kanara Collector's Office
Mangalore, 25th March 1938.

From

M.R.Ry. Rao Bahadur M.V.Vellodi, Avl.,B.A.,
Collector of South Kanara.

To

The Rt. Rev. Dr. V.R. Fernandez,
Bishop of Mangalore.

Sir,

Alienation - Land - Mangalore Taluk - Kankanady 'B' village - S.Nos. 11/1A, 1B, 1C - Burial ground and chapel - Parish Church and parish house - conditions - offered -

---

With regard to your request for the alienation of S.Nos. 11/1A and 1C of Kankanady 'B' village measuring 1.10 acres and 3.63 acres respectively for a burial ground and S.No.11/1B measuring one acre for a parish church and parish house, I request you to let me know whether you accept on behalf of the Diocese the conditions of alienation set out in the appendix.

For Collector.

APPENDIX.

Conditions of alienation.

lands 11/1A, 1B and 1C of Kankanady village, Mangalore Taluk shall be used for the ---- purposes respectively noted against them and for no other --- purpose.

nkanady village.

ion.	Extent. Ac. Cents.	Purpose.
1A	1- 10	.. Burial ground and mortuary chapel.
1B	1- 00	.. Parish Church and Parochial house
1C	3- 63	.. Burial ground.
	5- 73	

2. The buildings specified in the margin shall alone be erected on the land, and they shall be erected within a period of three years from the date of the grant. No other buildings shall be erected on the land without the ---- previous permission of the Collector. The burial ground shall be laid out within 2 years from the date of the grant.

11/1A	ortuary Chapel.
1B	a Parish Church and .. Parochial house.

3. The burial ground shall be open to all Catholic ...ristians subject to any restrictions that may be imposed or regulating burials.

4. The grantee shall maintain the buildings after their construction in accordance with condition 2, in good ...ndition. Such repairs as the Collector may consider ...cessary from time to time shall be executed by the grantee ...thin such time as the Collector may fix and to his satisfaction ... the event of default, the repairs shall be carried out by ...he Collector and the cost thereof recovered from the grantee.

5. The Government may resume the land wholly or in part ...ith any buildings thereon in the event of infringement of any ...f the conditions of the grant. In the event of such resumption no compensation shall be payable for any improvements that ...y have been effected or other works that may have been executed ...n the land by the grantee. If there are buildings on the ...nd, the Government may direct the grantee to remove them.

6. The Government may resume the land wholly part with any buildings thereon, if in the opinion of Government the land is required for a public purpose or conducting mining operations.

7. In the event of resumption or acquisition of the plot for any reason, no compensation shall be payable for any buildings erected without permission.

8. In the event of resumption under condition 6 if there are buildings on the land, the Government may at the option, either

(a) purchase the buildings, or

(b) direct the grantee to remove the buildings.

9. In the event of the resumption of the land followed by the purchase of the buildings under condition 8 or in the event of the acquisition of the land for any reason the compensation payable for buildings or other improvements shall in no case exceed the initial cost or the value at the time of resumption or acquisition whichever may be less, of any buildings erected or other improvements effected on the land by the grantee in accordance with the terms of the grant. Any grant which may be made by Government towards the cost of any buildings shall be deducted from the compensation payable to the alienee.

10. In the event of the grantee refusing to remove the buildings, when so directed under condition 6 or 8, the Government may remove them and realize the cost of removal by the sale of the materials.

11. In the event of the voluntary relinquishment of the land by the grantee, no compensation shall be payable for any improvements that may have been effected or for work that may have been executed on the land by the grantee.

From the Rt. Rev. Dr. V.R. Fernandes, Bishop of Mangalore.
To the Collector of South Kanara, Mangalore.
Mangalore, dated 2nd April 1938.
Ref.C.1110-38-B3.

Ref: Alienation - Land - Mangalore - Kankanady 'B' village - S.Nos.11/1A, 1B, 1C - Burial ground and chapel - Parish Church and Parish House -Conditions offered - Letter dated 25th March 1938.

With reference to the above communication offering conditions for the alienation of S.Nos. 11/1A, 1B, 1C of Kankanady 'B' village measuring acres 5.73 I have the honour to state that I hereby accept the conditions set out in the Appendix on behalf of the Diocese of Mangalore and to utilise the plots for the purpose for which they are assigned.

/ True copy /

For Collector.

11.4.38

To

The Collector, South Kanara.

From

J. M. Sequeira, M.A., LL.L.,

Vakil, Court Road, Mangalore.

Suit notice under S.80 of the C.P.C. as amended by the Government of India (Adaptation of Indian Laws) Order 1937 sent by vakil Mr. J.M.Sequeira on behalf of his clients.

1. Felix Mascarenhas son of Peter Mascarenhas, Lower Falnir.
2. Thomas Souza son of Gabrial Souza, Falnir.
3. Frederick N.A.Pinto son of Marian G.Pinto, Falnir.

Cause of Action: The Act of the Government adumbrated in letter Ref.B3-1110-38 dated 27-2-1938 from the Collector,S.K. requesting to send a copy of the resolution of the Mangalore Municipal council relinquishing the plot known as Byrepalke or Velencia Cemetry in T.S.No.11/A2A of Kankanady to alienate the same in favour of the Bishop of Mangalore for use as a burial ground and a Chapel attached thereto which resolution has relinquished to Government the plots 11/1B and 1C unconditionally for alienation in favour of the Bishop of --- Mangalore for use as a burial ground and a Chapel attached thereto.which act is with a view to alienate the said land to the Bishop of Mangalore diocese on receipt of the copy called for.

Relief claimed: A declaration that the above act is ultra vires, illegal and a breach of trust. Further the Municipality and the Government have no power to resume a land dedicated for burial and alienate the same to the Bishop for the purpose of constructing a Chapel and for an injunction restraining the Government from alienating the same to the said Bishop.

Plaintiffs are Roman Catholics of Mangalore. The Byaripalke Cemetry was given to the Municipality of Mangalore by Government in G.O.61 Mis. 23-1-1888 as a burial place for the Roman Catholics of Mangalore.

Mangalore,
31-3-1938.

Yours faithfully,

/True copy/ sd/- J.M.Sequeira.

For Collector.

ALIENATION - Land ~~- Revenue~~ - ~~Buildings~~ -

(S. Kanara) - Mangalore Taluk - Kankanady B

Village/~~town~~ - S.Nos 11/1 A and 11/1C -

Burial ground & mortuary chapel - Roman Catholic Bishop of the Diocese of Mangalore

~~Recommended.~~ Recommended.

Sanctioned.

B.1188 - Fromthe Govt R.D. Memo no 5718 - F/37-2 of 8-2-38 — R

B.3660 - From the Collr of S. Kanara. Ref C.1110-38-B3 of 7-4-38 — R

Ref B. ~~5048~~-36-7 of 2-5-38

At the instance of the Collector of the ....

~~the Board recommends~~ ~~sanctions~~ the alienation of the plot of land comprised in S.No.

village taluk measuring Ac.

~~in favour of~~

for use as the site of

With reference to the Govt memo cited above the Board submits to the Govt proposals for the alienation of the plot of land comprised in S. nos 11/1A and 11/1C of Kankanady B village, Mangalore taluk, S. Kanara dt, measuring 1.10 acres and 3.63 acres respectively in favour of the Roman Catholic Bishop of the Diocese of Mangalore for use as the site of burial ground and mortuary chapel for the Roman Catholics of Mangalore.

21. In its resolution no. 23 dated 14-3-38 page 209 of the Mpl council, Mangalore has relinquished the lands unconditionally the lands have therefore reverted to the Govt. The lands do not contain any tree-growth but they contain improvements effected by the proposed alinee as detailed below:—

		Estimates — Rs	As	Ps
S. no 11/1A - Tiled mortuary chapel building and walls on two side		2500	- 0	- 0
S. no 11/1a	Mud walls	50	- 0	- 0
		75	- 0	- 0
		2.625	- 0	- 0

Certain Roman Catholics of Mangalore have given a notice of suit to the Govt objecting to the alienation of the lands. The Govt has record

3. The alienation will be free of charge for the occupancy right ~~and free of assessment / ground rent~~ but subject to assessment which will be liable to revision and subject also to ~~the payment of Rs. being the value of the trees standing on the land and subject also to~~ the following conditions to which the alienee has agreed:-

(1) The land shall be used as the site of burial ground and mortuary chapel ——————— and for no other purpose.

(2) The burial ground shall be laid out within two years from the date of the grant.

(3) ~~(2)~~ No other buildings shall be constructed on the land without the previous permission of the Collector of the District.

(4) No parish services shall be conducted in the mortuary chapel existing in S.Nos. 11/1A.

(5) The burial ground shall be open to all Roman Catholic Christians subject to any restrictions that may be imposed for regulating burials.

(6) The Government may resume the land wholly or in part with any buildings thereon, in the event of the infringement of any of the conditions of the grant. In the event of such resumption no compensation shall be payable for any improvements that may have been effected or other works that may have been executed on the land ~~of~~ by the grantee. ~~(and the grantee shall not be entitled to the repayment of any amount that may have been paid to the Government for the grant).~~ If there are buildings on the land, the Government may direct the grantee to remove them.

(7) The Government may resume the land wholly or in part with any buildings thereon if in the opinion of the Government the land is required for a public purpose, or for conducting mining operations. ~~(In the event of such resumption or in the event of the acquisition of the land for any reasons, the compensation payable for the land and trees shall in no case exceed the amount paid for them by the grantee or their value at the time of resumption or acquisition whichever may be less.~~

(8) In the event of resumption under condition (7) if there are buildings on the land the Government may at their option either,

(a) purchase the buildings,
(b) direct the grantee to remove the buildings.

(9) In the event of the resumption of the land followed by the purchase of the buildings under condition (8)(a) or in the event of the acquisition of the land for any reason the compensation payable for buildings or other improvements shall in no case exceed ~~(the amount paid for them by the grantee at the time of alienation or their value at the time of resumption or acquisition, whichever may be less, together with)~~ the

initial cost or the value at the time of resumption or acquisition, which ever may be less, of any buildings erected or other improvements effected on the land by the grantee in accordance with the terms of the grant. But in no circumstances shall any compensation be paid by the Government in respect of buildings constructed in contravention of condition (3).

(10) In the event of the grantee refusing to remove the buildings when so directed under condition (6) or (8)(b) the Government may remove them and realise the cost of removal by the sale of the materials.

(11) In the event of the voluntary relinquishment of the land by the grantee no compensation shall be payable for any improvements that may have been effected or for works that may have been executed on the land by the grantee ~~and the grantee shall not be entitled to the repayment of any amount that may have been paid to the Government for the grant.~~

18
29/4
1.C.38

2 838

To the Secretary to Government,
Revenue Department, with alienation statements
(pages ⊕ 203 c/f to be copied & sent) ~~& sketches~~
~~(pages in original)~~.

~~To the Collector of:~~

⊕ Portions relating to S. nos. 11/1A2 11/1C also need be copied.
K1

(Mr. J. F. H.) 22/

ALIENATION - Land & Revenue - ~~Buildings~~ -

(S. Kanara) - Mangalore Taluk -

Kankanady B Village/~~town~~ - S.No. 11/1 B -

Parish Church & parochial house -

Roman Catholic Bishop of Mangalore -

Recommended.

~~Sanctioned~~.

15/4 B. 1188 - From the Govt. R. D. Memo no. 5718 - F/37-29.8.2.38 - R

20/4 B 3060 - From the Coll. of S. Kanara. Rep. c. 1110-38 : B3 of 7-4-38 - R

15/4 Rep B. 5040-36-8 of 2-5-38

~~At the instance of the Collector of the~~

the Board recommends / sanctions the alienation of the plot of lan

comprised in S.No. -f

village taluk measuring Ac.

in favour of

for use as the site of

11938 CM

With reference to the Govt memo cited above the Board submits proposals for the alienation of the plot of land comprised in s.no. 11/1B of Kankanady B village, Mangalore taluk, S. Kanara dt measuring one acre in favour of the Roman Catholic Bishop of Mangalore for use as the site of a Parish Church & parochial house for

the Roman Catholic Christians of Mangalore.

2 The land does not contain any tree growth but it contains improvements effected by the proposed alienee as shown below:-

	Rs	As	Ps
Mud walls	25	0	0
Wooden cross with stone pedestal	30	0	0
	55	0	0

3. The alienation will be free of charge for the occupancy right and free of ~~ground rent~~ assessment but subject ~~to assessment which will be liable to revision and subject to the payment of Rs. being the value of the trees standing on the land and subject also~~ to the following conditions to which the alienee has agreed:-

(1) The land shall be used as the site of a parish church and parochial house for Roman Catholic Christians and for no other purpose.

(2) The buildings shall be erected within three years from the date of the grant.

(3) No other buildings shall be constructed on the land without the previous permission of the Collector of the district.

(4) The Government may resume the land wholly or in part with any buildings thereon, in the event of the infringement of any of the conditions of the grant. In the event of such resumption no compensation shall be payable for any improvements that may have been effected or other works that may have been executed on the land ~~of~~ by the grantee. ~~(and the grantee shall not be entitled to the repayment of any amount that may have been paid to the Government for the grant).~~ If there are buildings on the land, the Government may direct the grantee to remove them.

(5) The Government may resume the land wholly or in part with any buildings thereon if in the opinion of the Government the land is required for a public purpose, or for conducting mining operations. ~~(In the event of such resumption or in the event of the acquisition of the land for any reasons, the compensation apayable for the land and trees shall in no case exceed the amount paid for them by the grantee or their value at the time of resumption or acquisition whichever may be less.~~

(6) In the event of resumption under condition (5) if there are buildings on the land the Government may at their option either,

(a) purchase the buildings,
(b) direct the grantee to remove the buildings.

(7) In the event of the resumption of the land followed by the purchase of the buildings under condition (6) or in the event of the acquisition of the land for any reason the compensation payable for buildings or other improvements shall in no case exceed ~~(the amount paid for them by the grante at the time of alienation or their value at the time of resumption or acquisition, whichever may be less, together with)~~ the

initial cost or the value at the time of resumption or acquisition, which ever may be less, of any buildings erected or other improvements effected on the land by the grantee in accordance with the terms of the grant. But in no circumstances shall any compensation be paid by the Government in respect of buildings constructed in contravention of condition (3).

(8) In the event of the grantee refusing to remove the buildings when so directed under condition (4) or (6)(b) the Government may remove them and realise the cost of removal by the sale of the materials.

(9) In the event of the voluntary relinquishment of the land by the grantee no compensation shall be payable for any improvements that may have been effected or for works that may have been executed on the land by the grantee ~~and the grantee shall not be entitled to the repayment of any amount that may have been paid to the Government for the grant.~~

(10) Full land revenue shall be levied if at any time it is found that the grantee levies any rent for the occupation of the church & parochial house

15/
29/4
1.5.38

2 5.38

To the Secretary to Government,
Revenue Department, with alienation statements
(pages 203 & 205 to be copied & sent) ~~& sketches~~
~~(pages in original).~~

To the Collector of:

Note
The portion relating to S.No. 11/1B alone at p. 203 of the sketch copied in

235 B38(b)

BOARD OF R'V
19 MAY 1938
MADRAS

GOVERNMENT OF MADRAS

R E V E N U E D E P A R T M E N T

19 Y

MEMORANDUM NO. 5718-F/37-3, dated the 16th May 1938.

Alienation - land and revenue - (South Kanara) Mangalore taluk - Kankanady ~~Kankanady~~ B. Village - S.Nos. 11/1-A and 11/1-C and 11/1-B. and burial ground and mortuary and parish church and parochial house - From the Board of Revenue Ref.Nos.B.5040/36-7 dated 2.5.1938 and 5040/36-8, dated 2.5.1938.

In paragraph 3 of its reference first quoted above, the Board of Revenue has stated that the alienation of S.Nos.11/1-A & 11-1-C will be subject to assessment. It is presumed that rent fees will be charged for the use of the burial ground. The Board of Revenue is requested to report whether this presumption is correct.

2. The attention of the Board is invited to letter No. 751-225-2 dated 30th October 1917 of the Government of India (R.&.A.Department) recorded in G.O.No.1210, Revenue, dated 26th March 1918. The Board is requested to report the extents of the land in S.No.11/1-B which are required for the Church and the parochial house separately.

T.N.S. MANI.

Under Secretary to Government.

To the Board of Revenue.

FORWARDED

(ORDER).

V. Ramaiah

Superintendent

(Mr. V. F. H)

C.F. 16.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying ..	26/5	
When copied ..	26/5	
When examined..	27/5	
When signed ..	27/5	
When despatched		

SUBJECT:— Alienation – land – (S. Kanara Mangalore Tk – Kankanady Brg Sy. Nos. 11/1A & 11/1C – Burial Ground & mastavay chapel – Roman Catholic Bishop of Diocese of Mangalore.

READ AGAIN ____ dated 28 MAY 1938 19____.

" " ____ " ____ 19____.

READ ALSO:—

3235 of No. B.3876 From the Govt. R.O. Memo No. 5718 F1/37-3 dated 16-5-1938-9

" ____ " ____ " ____ " ____ 19____.

" ____ " ____ " ____ " ____ 19____.

Order ~~Ms.~~ / ~~Resolution Rout.~~ No. B. 5040/38-9 dated 26-5-1938.

Ref

The Board submit that the presumption expressed in para 1 of the Govt memo cited above is correct.

2. The Collr has been asked to furnish the information required in para 2 of the Govt memo. A further report on the subject will be submitted on receipt of the Collr's reply.

Ag 25/5

Ag 25/5

Ag 28/5

Ag 25/5

FH 2/5/38

One Secy to the Govt. Rev Dept

235 [Mr. J. F. H]

16. 635 C.F. 16.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying ..	26/5	
When copied ..	26/5	
When examined..	27/5	
When signed ..		
When despatched.	27 MAY 1938	

SUBJECT:— Alienation - hand over - (S. Kanara) - Mangalore Taluk Kankanady Bye- S. no 11/1B Parish Church & parochial house Roman Catholic

HEAD AGAIN _____, dated Bishop of Mangalore.

" " _____ " _____ 19____.

READ ALSO:—

p 20 of No. B 3660 From the Coll of S. Kanara No. Rev C. 1110-38-B3 of 7-4-38-Q

" 235 of " B. 3816 " " Govt. A.D. Memo " 5718 F(2)-3 of 16-5-19 38-Q

" " _____ " _____ " _____ " _____ 19____.

Order ~~Ms.~~ Resolution Rout. No. B 5240/38-40 dated 26-5-1938.

(X) with B.P.

The attention of the Coll is invited to Govt no 1200 Rev of 26-3-18 Com Mis No 65 of 13-5-18. He is requested to report the extents of the land in S. no 11/1B which are required for the parochial house and parish church separately.

the letter and draft

Re 235

18
23/5

To the Coll of S. Kanara

Ref.C.1110-38-B3. South Kanara Collector's Office,

Mangalore, 11th June 1938.

5040+36

13(4385)

From

Sri Rao Bahadur M. V. Vellodi, B.A.,

Collector of South Kanara.

To

The Secretary to the Board,

Land Revenue & Settlement,

M a d r a s.

Sir,

Alienation - Land and Revenue - Mangalore Taluk - Kankanady 'B' village - S.No.11/1B - Parish Church and Parochi house - Roman Catholic Bishop of Mangalore.

******

pl 39 Reference: Board's Reference B.No.5040/36.1C, dated 26.5.1938.

******

Out of the land in S.No.11/1B of Kankanady 'B' Village, Mangalore Taluk measuring one acre, the portion marked 'P' in

45 the enclosed sketch measuring 15 cents, will be required for the parochial house and the remaining extent of 85 cents for the parish church.

42 2. I enclose a copy of the letter, dated 7.6.1938 of the Bishop of Mangalore in this connection.

11/6

For Collector.

11-6-38.

Ref.C.1110-36-No. South Kanara Collector's Office

Bangalore, 11th June 193

From

Sri Rao Bahadur M. Venkat Rao,

Collector of South Kanara.

To

The Secretary to the Govt.

Land Revenue & Settlement,

Sir,

Alienation - Land and Revenue - Regularisation of the -
Kankanady 'B' village - S.No.11/1B - Parish Church and Presbyt
House - Roman Catholic Bishop of Mangalore.

*****

Reference: Board's Reference P.No.D0(2)5.10, dated 6.5.1938.

*****

Out of the land in S.No.11/1B of Kankanady 'B' Village, Mangalore Taluk measuring one acre, the portion marked 'A' in the enclosed sketch measuring 11 cents, will be required for the parochial house and the remaining extent of 89 cents for the parish church.

2. I enclose a copy of the letter, dated 7.6.1938 of the Bishop of Mangalore in this connection.

for Yours etc.

DIOCESE OF MANGALORE.

Ref.C.No.1110-38-B3. Mangalore, 7.6.1938.

From

The Rt. Rev. Dr. V. R. Fernandes,
Bishop of Mangalore.

To

Sri Rao Bahadur M. V. Vellodi, B.A.,
Collector of South Kanara.

Sir,

Alienation -Land and Revenue - Mangalore Taluk - Kankanady B Village - S.No.11/1B - Parish Church and paroch house - Roman Catholic Bishop of Mangalore - Your letter da 1st June 1938.

*****

With reference to the above communication dated 1st June 1938, I have the honour to say that 15 cents of land in S.No.11/1B of Kankanady B village will be required for the parochial house, and the rest for the Parish Church. The portion required for the parochial house has been indicated as P in the sketch, received with your letter. The sketch is herewith returned.

V. R. Fernandes,
Bishop of Mangalore.

(True Copy)

For Collector.

DIOCESE OF MANGALORE.

Ref.C.No.1110-38-B3 Mangalore, 7.6.1938

From

The Rt. Rev. Dr. V. R. Fernandes

Bishop of Mangalore.

To.

Sri Rao Bahadur M. V. Vailoori, B.A

Collector of South Kanara.

Sir,

Alienation -Land and Revenue - Mangalore Taluk Kankanady B Village - S.No.11\1B - Parish Church and parochi house - Roman Catholic Bishop of Mangalore - Your letter dat 1st June 1938

*****

With reference to the above communication dated 1st June 1938, I have the honour to say that 15 cents of land in S.No.11/1B of Kankanady B village will be required for the parochial house, and the rest for the Parish Church. The portion required for the parochial house has been indicated as P in the sketch, received with your letter. The sketch is herewith returned.

V. R. Fernandes,

Bishop of Mangalore

(True Copy)

Y.

For Collector.

247 / Mr. J. F. H

Ug 8

F. 16.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying ..	17-6	
When copied ..	17/6	
When examined..	20/6	
When signed ..	20/6	
When despatched.		

SUBJECT:— Alienation - land to Rev - (S. Kan Mangalore Tk - Kankanady R S. no 11/1B - Parish Church & parochial house - Roman Catholic Bishop of Mangalore.

READ AGAIN _____, dated _____ 19____.

" " 1.11.38 " _____ 19____.

READ ALSO:—

235 of No. B. 3616 From the Govt. R.D. Memo No. 5718 F/37-3, dated 16-5-1938 - R

241 of " B. 4385 " Coll. of S. Kanara Rep. C. 1110-38 of 11-6-1938 - R

" _____ " _____ " _____ " _____ 19____.

Order ~~Ms.~~ / Resolution ~~Rout.~~ No. B 5040/36-11, dated 16-6-1938.

In continuation of
p 237 of ~~the~~ its Reference no. B. 5040-36-5 of
16-5-38 the Board submits that
out of one acre of land in S. no.
11/1B, an extent of 15 cents marked
p 245 of "P" in the enclosed sketch will
be required for the parochial house
and the remaining extent of 85
cents will be required for the
parish church.

16/6
15/6
16/6
15/6

16.6.38

Secy to the Govt. Revenue Dept with a sketch
(vide p 247-248 of)

Revenue Department.

BOARD OF REVENUE
16 JUL 1938
MADRAS

5041/36

M E M O R A N D U M.

No. 5718 F/37-5, dated the 14th July 1938.

*****

Alienation - Land - (South Kanara) - Mangalore taluk - Kankanady village - S.No.11/1 - Parish Church and burial ground - Roman Catholic Bishop of Mangalore - Reference from the Board of Revenue Nos.B-5040/36-7, and 5040/36-8, dated the 2nd May 1938.

With reference to paragraph 1(ii) of G.O.No.1714 Revenue, dated 7th July 1938, condition (10) of the conditions of alienat proposed by the Board of Revenue in its Reference No.B-5040/36-8, date 2nd May 1938, might be amended as follows:-

"Full land revenue shall be levied if at any time any rent is charged for the use of the church and parochial house or if any o the conditions of the alienation are infringed. In the latter ca the land revenue shall be levied from the date of the infringemen The Board is requested to obtain the consent of the Bishop to th condition as amended above.

2. South Kanara is one of the districts in which the condi tions relating to sandalwood trees should be imposed with referen to G.O.No.1026 Revenue, dated 21st April 1938. The Board is requested to obtain the consent of the Bishop to those conditions also.

T.M.S. Mani,
Under Secretary to Government.

To the Board of Revenue.

*****

F O R W A R D E D.

(By Order)

Superintendent.

22-8-38 [Mr. F.W.S.]

257 C.F. 16

DRAFT FOR APPROVAL.

	Date:	Initials.
When received for fair copying ..	22/7	
When copied ..	25/7	
When examined..	25/7	
When signed	27/7	
When despatched.	27 JUL 1938	

SUBJECT:— Alienation land - (S. Kanara, Mangalore Tq - Kankanady Bype - S. nos 11/1A, 1B & 1C - Burial ground & mortuary chapel - S. no 11/1B - Parish church & parochial house - R. C. Bishop of Mangalore.

READ AGAIN ____, dated ____

" " ____ " ____ 19____.

READ ALSO:—

01/cf No. B.3060 From the Collector S. Kanara No. C - 1110 - 38 - B3497 - 4 - 38 - R

249/cf " B.5167 " Govt. R.O. Memo " 5218 F/37 - 5/cf 4467 - 38 - R

" ____ " ____ " ____ " ____ 19____.

Order ~~Ms.~~ Resolution Rout. No. B.5020/38-12, dated 22-7-1938.

p 214/cf

Condition (12) of the Conditions of alienation proposed by the Collr. in his letter cited above has been amended as follows:-

p 245/cf

"Full land revenue shall be levied if at any time any rent is charged for the use of the Church & parochial house or if any of the conditions of the alienation are infringed. In the latter case the land revenue shall be levied from the date of the infringement."

The Collr. is requested to obtain

the Consent of the Bishop to the
condition as amended above
2. The Boards is also requested to
obtain the Consent of the
Bishop to the following additional
conditions:-

[Here enter conditions (if any) in the B.P. at (P)] as amended in pencil

81
17

253

B6600

Urgent.
Ref.C.4613-38-A3.

South Kanara Collector's Office
Mangalore, dated 28th July 38.

From

Sri Rao Bahadur M.V.Vellodi, B.A.,
Collector of South Kanara.

To

The Secretary to the Board of Revenue,
Land Revenue and Settlement, Madras.

Sir,

SUITS - Mangalore Dt.Munsif's Court - O.S.314/38 - Mangalore Taluk - Kankanady 'B' village - S.No.11/1A,1B,1C-

pp 235 ½

Ref:- Board's Refce.B.No.5040/36-10 dated 26.5.1938.

****

pp 255 - 261 ½

I enclose a copy of the plaint filed in the Court of the District Munsif, Mangalore with regard to S.Nos.11/1A,1B and 1C of Kankanady B village, Mangalore Taluk proposed by me for alienation to the Bishop of Mangalore for use of a Burial ground, Mortuary chapel, Parish Church and a Parochial House. Final orders of the Board have not yet been communicated to me.

2. As a written statement has to be filed by me in consultation with the Government Pleader, Mangalore, I request that my office files D.Dis.2175-36 and D.Dis.3432-35 sent in reply to Board's Refce.B.No.5040/36-4 dated 2.10.37 may kindly be returned to me at an early date.

For Collector.
28.7.38

To Supdt A section.

An extract of this Coll's letter together with its encl is put up for necessaction. Please acknowledge its receipt.

8/8
8.8.38

IN THE COURT OF THE DISTRICT MUNSIF OF MANGALORE.

Original Suit No.314/1938.

Between

1. Felix Mascarenhas)
2. Thomas Souza.) Plaintiffs.

and

1. The Mangalore Municipal Council, represented by its Commissioner, Sri K. Govindarajulu Naidu.
2. The Province of Madras, represented by the Collector, South Kanara, Sri, M.V.Vellodi. Defendants.
3. The Bishop of Mangalore Rt.Rev. Dr.V.R.Fernandes.

Plaint under Section 26 Order 7 Civil Procedure Code.

The Plaintiffs above-named beg to state as follows:-

1. That 1st Plaintiff is the son of Peter Mascarenhas, of household profession, is aged about 67 years and is residing in Lower Falnir, Mangalore Town. The 2nd Plaintiff is the son Gabriel Souza and is a Roman Catholic aged about 60 years, household profession, and is residing in Flanir, Mangalore wn.

2. The 1st defendant is the Mangalore Municipal Council and sued by its Commissioner, Sri K.Govindarajulu Naidu and is a -Brahmin aged about 37 years, and residing in Kankanady Road, galore Town. The 2nd defendant is the Province of Madras and represented by the Collector of South Kanara Sri M.V.Vellodi, iding in Collector's Bungalow, Mangalore. The 3rd defendant the Bishop of Mangalore, Dr. V.R.Fernandes and is residing in hop's House, Mangalore.

3. Plaintiffs are Roman Catholic residents in and rate payers of the Mangalore said Municipality.

4. The 2nd defendant granted to 1st defendant by its order dated 20-12-1887 No.1174-Revenue, a plot of land 5.73 cents

free of assessment for use as a burial ground for the Roman Catholics of Mangalore more fully described in Schedule annexed hereto. In the proceedings of the General Meeting of the Municipal Council of the Town of Mangalore held on 29-2-1888 after recording G.O.No.61 M.Misc.123-1-1888 communicating sanction to the transfer by The Mangalore Municipality of lands required for burial places for Roman Catholics, the Roman Catholic Bishop of Mangalore was invited to state if he was willing to take over the management of the R.C.Cemetery subject to the condition that he encloses it with a substantial wall and that the provisions of Act IV of 1884 be carried out to their full extent. The Bishop of Mangalore by a letter dated 15th March 1888 stated that he was willing to take over the place assigned for the Roman Catholic Cemetery subject to the condition laid down in Resolution No.4 dated 26-2-1888 and the Mangalore Municipal Council approved of the Bishop's proposals.

5. The plot was accordingly handed over to the Bishop. The Bishop enclosed the site by a mud wall. The wall has fallen down or collapsed in some places which have been fenced by some wooden hedge poles but sufficient for cattle to stray in. The present management of the Cemetery however have laid down certain stipulati as regards burials demarcating it into three classes of ground, 1st, 2nd and 3rd, with burial fees of varying degrees so much so that free burials are denied to the Roman Catholics on account of the egregious insistence of all payments in advance before the priest consented either to allot the space for the grave or to bless the dead body in fulfilment of the last rites enjoyed by the church and by Canon Law.

6. These iniquitous burial charges have become and are a menace to the poorer Roman Catholics and their petitions to the church authorities and to the Parish Priest of Valencia, now in charge of Valencia Cemetery, not to insist upon them have been of no avail but have made the church authorities more determined to enforce the strict rule of payment in advance before the dead can be honoured.

7. On or about 1-3-1935 the Bishop of Mangalore constituted

Copy at pp 181-1874

the Valencia Parish by a decree and that pending construction of a church and a Parochial house, the church services were being held in the Mortuary chapel in the said Cemetery. About 70 families of the old Milagres Parish included within the area demarcated for the new Valencia Parish objected to their ---- separation from the Milagres Parish and objected to their --- arbitrary assignment to Valencia. The Bishop modified his order in some cases where the richer family was able to pay the Bishop a sum of Rs.200/- (Rs.Two hundred) to be retained in the Parish of Milagres.

P.4 of (W)

8. It may be mentioned here that the mortuary chapel referred to supra was completed early in 1935 and it was inaugurated on 10-2-1935. The Bishop applied to the Collector to assign a small portion of the centre of the Cemetery for location of the Parish church but the said petition was not granted.

Copy at P-195 of

9. The fact that church services were being regularly held in the Mortuary Chapel and that high fees for burial are being collected was intimated by some Roman Catholics to the Collector who in his proceedings dated 25.9.1935 declined to interfere in the matter of collecting burial charges and also stated, but if the Mortuary chapel is developed into a Parish church then there is a breach of the conditions. Much more if any priest's residence is erected there. The Bishop cannot vary the use of the land witnout reference to Government. The application of another Roman Catholic to hand over a part of the land for the purpose of the new Valencia Church to be built was also rejected.

10. The matter was taken up by the Mangalore Municipal Council, on the representation of some Roman Catholics, that church services are being held in the Mortuary chapel but the latter thought that no action was then necessary in view of the statement of the Bishop that the mortuary chapel has not been converted into a Parish church. This statement on the face of it was false and against the overwhelming evidence placed by

some of the Roman Catholics before the Municipal Council and when it was so argued and proved and as a resolution on the subject was before the Council the Commissioner addressed the Bishop of Mangalore and asked for definite information on the following points. PP.17-18 (W)

(1) Whether the Mortuary chapel is changed into a Parish church or is constituted into one.

(2) For accounts of the burial fees collected from the parti by the Bishop or his subordinates. The Bishop in his letter dated 20.8.1956 admitted that pending construction of a new Parish the Mortuary chapel is also used for Parochial services temporarily and that 44 cents has been allotted for burials of the paying Section of Valencia Parish and of the whole of Mangalore and that the right of people for free burials is not taken away. The Bishop took the stand that the council had no authority to interfere in the levy of burial fees. PP.18-19

11. The matter was argued before the Municipal Council as to whether any action should be taken against the Bishop for violating the terms of the grant and for holding services in the chapel converted into a parish church and a resolution of Messrs. K. R. Karanth and B. V. Baliga was voted against, by a majority of the Councillors they having been gained over by the undue influence of the Bishop and his powerful supporters. The matter rested there for some time.

12. Subsequently nowever the 3rd defendant seems to have written to Government that he may be pardoned for violating the terms of the grant and that an acre of land may be granted to him to build a church in the cemetery. The Government asked the Bishop to close the church before any other request could be considered and the church was accordingly closed. The 3rd defendant who has ample lands in the vicinity of the plaint plo kept pursuing the question out of sheer regard for his prestige and on account of his high influence.

13. Recently the Government asked the Municipality if they had any objection to relinquish one acre of land to the Bishop

of Mangalore to build a church and a Parochial house and again the Council said they had no objection, despite a suit notice sent to the 1st defendant on 6.10.1937 which was referred to a committee which however could not come to a decision and now it has been recorded as per letter of the Commissioner, dated 3.6.1938 D.Dis.C.No.3471/D2-38.

14. The Government have since made over the entire burial ground to the Bishop and a suit notice dated, 31.3.1938 sent to the 2nd defendant has been recorded in D.Dis.1974-38, dated 26th April 1938.

15. The plaintiffs submit that once the land has been dedicated for burial and the more so when it has actually been used for burial purposes, the dedication is complete and Government have no power to resume it and assign it to any other person for any other purpose. The building of a Parish church and a Parochial house thereon would be a distinct breach of the original dedication grant and a breach of trust and is illegal and ultra vires.

16. The 2nd defendant having handed over the plaint plot to the 3rd defendant, the latter is busy making preparations for the construction of a pucca church and Parish house within the A Schedule property and if this is allowed, the graves standing on the site will be defaced and violated. Further there is no other Municipal burial ground for Roman Catholics. All these acts and omissions infringe the Civic and legal rights of the Plaintiffs in Schedule A property and as all attempts of theirs to set right matters have failed they are constrained to file this suit.

17. Plaintiffs file this suit on behalf of themselves and also for and on behalf of the Roman Catholics of Mangalore and a separate application has been filed under Order 1 rule 8 Civil Procedure Code for permission to sue.

18. The notice under section 350 of the District Municipalities Act to the 1st defendant and under section 80 of the C.P.C. to the 2nd defendant have been served on them respectively.

19. The cause of action for this suit arose on 17.7. when the 1st defendant resolved not to take action against the 3rd defendant for infringing the terms of the grant and on 6.9.1937 when the 1st defendant agreed to assign one acre of land to 3rd defendant and on 14.3.1938 when the 2nd defendant handed over the entire land to defendant at Mangal Town within the jurisdiction of this court and when the Sche A property is being used contrary to the terms of the grant.

20. Plaintiff values the reliefs sought for at Rs.100/ for purposes of court fee and jurisdiction and a court fee c Rs.11.3.0 is paid under section 7 iv (c) V (b) and section 1 and Article I of Schedule I of the Court Fees Act.

21. Plaintiffs pray for a decree and judgment:-

(1) For a declaration that the resumption of the Schedule A Property by the 2nd defendant from the 1st defendant and its assignment to the 3rd defendant are illegal ultra vires and void and for a permanent injunction restraining the 3rd defendant from constructing upon the said property, or any part thereof any church or Parochial house or any other structure of any other type excepting a compound wall or repair thereof or making use of the said property except as a Municipal burial ground for the Roman Catholics of Mangalore. } Re

This relief as valued under Section 7 IV (c) of the Court Fees Act at Rs.100/- being not less than half of its value for possession under section 7 (V) as noted below:-

Assessment	Rs. 5.12. 0
5 times of do.	Rs.28.12. 0
Half the value of building (mortuary chapel having only a notional value and no market value).	Rs.50. 0. 0
Total:	Rs.78.12. 0

(2) For costs of suit with interest at 6% p.a. and for such other and further reliefs as to this court may deem fit.

Schedule A.

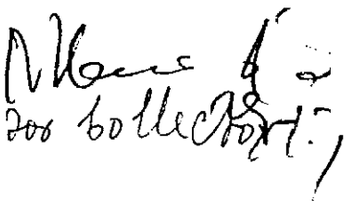
Immoveable property situated in Mangalore Registration Sub-District. Mangalore Taluk. pertaining to 84 B Kankanady village containing S.Nos.11/1A, 11/1B and 11/1C 5 acres 73 cents

in extent and on which as assessment of Rs.5.12.0 is payable.

Sd/- J. M. Sequeira,

Vakil for Plaintiffs.

(True Copy)



962

C.P. 1a

DRAFT FOR APPROVAL.

	Date:	Initials.
When received for fair copying ..	11-45 / 3.8	
When copied ..		
When examined..		
When signed		
When despatched:	DESPATCHED 4-AUG1938	

SUBJECT:— Alienation – Land Rev – (S. Kanara) – Mangalore Taluk – Kankanady Boys – S. No. 11/1 A of Burial ground etc – Roman Catholic Bishop of Mangalore.

READ AGAIN ..... dated ..... 19....

" " ..... " ..... 19....

READ ALSO:—

No. B. 5822 From the Coll of S. Kanara No. Rep 4813-38-A39 dated 28-7-38 R

" ..... " ..... " ..... " ..... 19....

" ..... " ..... " ..... " ..... 19....

Order—Ms. Resolution—Rout. No. B. 5822 / 38-13 dated 3-8-1938.

Issue as req
KN
3/8

CD
Please also take a copy of the Coll's letter (para 1 only) as it was not given to A section for action
KN
3/8

proceedings above typed
3/8

Encls. too
4/8

The Coll's files DD No 2175/36 & DD No 3432/35 are returned herewith

KN 2/8

Q 2.8

To the Coll of S. Kan with two files.
(V) & (T)

Letter from the Collector of South Kanara, to the Board of Revenue, Madras, Ref.C.4613/38-A3 dated 28th July 1938.

Suits - Mangalore District Munsif's Court - O.S.314/38
Mangalore Taluk - Kankanady 'B' village - S.No. 11/1A,1B,1C.
Ref: Board's Ref.B.No.5040/36-10 dated 26-5-1938.

I enclose a copy of the plaint filed in the Cour of the District Munsif, Mangalore, with regard to S.No. 11/1A,1B and 1C of Kankanady B village, Mangalore Taluk proposed by me for alienation to the Bishop of Mangalore for use ~~of~~ of a burial ground, Mortuary chapel, Parish Church and a Parochial House. Final orders of the Board have not yet been communicated to me.

Ref.C.4613/38-A3.

South Kanara Collector's Office,
Mangalore, dated 30 - 7 - 1938.

BOARD OF REVENUE
1 AUG 1938
MADRAS

Sri Rao Bahadur L.V.Vellodi, B.A.,
Collector of South Kanara.

To

The Secretary to the Board of Revenue,
Land Revenue and Settlement,
Madras.

Sir,

Suits - Mangalore District Munsif's court - O.S. 314/38 -Mangalore Taluk -Kankanady 'B' village -S.Nos. 11/1A, 11C -Burial ground.

I invite attention to my Ref.C.4613-38-A3 dated 28-7-38 intimating to the Board that a suit has been filed in the above case. It will be seen from the copy of the plaint submitted with that report that the first defendant is the Mangalore ------- Municipal Council represented by its Commissioner. It seems to me that in the circumstances of the case it is desirable that joint & co-ordinated action should be taken by the Municipality and the Government on the analogy of the instructions contained in B.P. 68 Ms. dated 20-3-25. The statements to be filed by the Government and the Municipality should agree with each other. If the Board agrees with this view, I suggest that Government may be moved to direct the Commissioner of the Mangalore Municipality to send a copy of his written statement in advance for approval by the Board through the Collector. The draft written statement to be filed by the Government will be submitted by me as soon as I get the concerned records from the Board and get the Government Pleader's opinion in the matter.

For Collect

(Mr FWS)

DRAFT FOR APPROVAL.

C.F. 1.

	Date.	Initials.
When received for fair copying ..	12.55 24/8	B
When copied ..	24/8	T.D.R.
When examined	24 8	H.C.J.
When signed ..	24/8	
When despatched.	25 AUG 1938	

SUBJECT:— Alienation. Land - (South Kanara Mangalore taluk - Kankanady village S.No. 11/1A etc. Burial ground R.C. Bishop of the Diocese of Mangalore Objection - Filing of Suit.

READ AGAIN ____, dated ____ 19____.

" " B.1188 — Govt Rev. Memo - 5718 F 37.2 D 8.2.38 19 8 P. 197 of

READ ALSO:—

No. B. ____ From the Board's Rufa B. 5040-36-7 D 2.5.38 No. ____, dated ____ 19____.

" B.5600 " Collr. of S. Kanara Ref C.4613.38 A3 D 20.7.38 19 A.P. 1

" ~~B. E.4287~~ " ____ " ____ " C.4613-38 A3 D 30.7.38 19 A.P. 26

Order / Resolution Ms. / Rout. No. Ref B/E 5040-36-14 D 24.8.38, dated ____ 19____.

Submitted to the Govt.

1. The Board invites the attention of the Govt. to ~~its Rufa~~ its Rufa 5040-36-7 ~~and~~ dated 2.5.38, in which ~~the Board has~~ it has reported that certain Roman Catholics of Mangalore have given a notice of suit ~~and~~ to the Collector objecting to the alienation of the lands. The Suit has been filed and a copy of the plaint is enclosed. As the written Statements to be filed by the Municipality and the Collr. should agree

3. The Board recommends that the Govt may be pleased to direct the Commissioner of the Mangalore Municipality to send a copy of his written statement in

Ref.C.No.1110-38-B3. South Kanara Collector's Office

Mangalore, 31st August 1938

Sri Rao Bahadur M. V. Vellodi, B.A.,

Collector of South Kanara.

To

The Secretary to the Board,

M a d r a s.

Sir,

Alienation - land - Mangalore Taluk - Kankanadi 'B' village - S.Nos.11/1A.1B.1C - Burial ground and chapel - Parish Church and Parish House - Further conditions offered - Acceptance Report.

******

524 Reference: Board's Ref.B-5040/36-12, dated 22.7.1938.

******

I enclose herein a copy of the letter No.Nil, dated 12.8.1938 of the Bishop of Mangalore agreeing to abide by the conditions relating to sandalwood trees and to the amended condition No.12 offered in the above Board's reference and communicated in my letter, dated 3.8.1938.

An extract of the conditions agreed to in enclosed.

For Collector.

31.8.38

Appendix.

1. The Government reserve to themselves the right to all sandalwood trees and their branches and roots which exist at the time of alienation as well as those which may grow subsequently on the land and the Government shall be at liberty to cut or dig out any such trees or their roots and branches and remove them from the land and dispose of them at their pleasure. The alienee shall not be entitled to cut or remove them or cause them to be cut or removed without the permission of the Collector of the district.

2. The alienee shall take all reasonable measures to the satisfaction of the Collector of the district for the protection of the sandalwood trees from theft or damage and for the careful protection of the immature trees growing on the land.

3. The alienee shall take steps to see that the marks made by the officers of the Government on the sandalwood trees are preserved and are not tampered with, and

4. In the event of the infringement of, or failure to observe any of the conditions (1) to (3), the alienee shall pay to the Government such compensation as is determined by the Collector of the district for any loss or damage caused by such infringement or failure on his part. The Government shall also be at liberty to resume the land and re-enter on it and the whole land shall thereupon vest absolutely in the Government. In that case the alienee shall not be entitled to any compensation whatever.

Sd/- M. V. Vellodi,
Collector,
3.8.1938.

(True Copy)

31.8.38

For Collector.

31.8.38.

Extract of amended condition No.12 communicated in Collector's Ref.C.No.1110-38-B3, dated 3.8.1938 to Rt. Rev. Dr. V. R. Fernandes, Bishop of Mangalore.

******

"Full land revenue shall be levied if at any time any rent is charged for the use of the church and parochial h. or if any of the conditions of the alienation are infringed. In the latter case the land revenue shall be levied from the date of the infringement"

(True Extract)

For Collector.

31.8.38

DIOCESE OF MANGALORE.

Mangalore, 12.8.1938.

From

The Rt. Rev. Dr. V. R. Fernandes,
Bishop of Mangalore.

To

Sri Rao Bahadur M. V. Vellodi, B.A.,
Collector of South Kanara.

Sir,

Alienation - Land - Mangalore Taluk - Kankanady 'B' villag S.Nos.11/1A.1B.1C - Burial ground and Chapel - Parish church and Parish House - Further conditions offered - Ref. Your letter, dated 3rd August 1938.

******

With regard to the above communication, I hereby declare my willingness to accept on behalf of the Diocese of Mangalore the further conditions of alienation set out in the appendix, a copy of which I have received, referring to sandalwood trees.

I also accept on behalf of the Diocese condition No.12 as amended and proposed to me under date 3rd August 1938. It refers to the payment of full land revenue if at any time any rent is charged for the use of the church and parochial house or if any of the conditions of the alienation are infringed.

Sd/- V. R. Fernandes,
Bishop of Mangalore.

(True Copy)

For Collector
31.8.38

5040 (w 7 ms) 2

C.F.16.

DRAFT FOR APPROVAL

	Date.	Initials.
When received for fair copying ..	7/9	
When copied ..	7/9	
When examined..	7.9.38	
When signed	7.9.38	
When despatched.		

DESPATCHED 7 SEP 1938

SUBJECT:— Alienation - Land - (S. Kanara) Mangalore taluk - Kankanadi B village S.Nos. 11/1A, ~~1B~~ etc - Burial Ground and chapel - Report submd.

READ AGAIN _____ dated _____ 19____.

" " _____ " _____ 19____.

READ *ALSO*:—

No. _____ From the _____ No. _____, dated _____ 19____.

" B516) " Govt Rev Memo 5718 F 37-5 D) 14.9.38 19____. Q P. 24

" 84591 " Collr. of S Kanara. C 1110.38.B3 D) 31-8-38 19____. Q. Pe

Order / Resolution Rout. Ms. / Rufee B/E No. 5040.36.15 D) dated 6.9.38 19____

WITH refce to the Govt. Mem read above, the Board submits a copy of the letter from the Bishop of Mangalore agreeing to the conditions ~~regarding the grant~~ ~~mentd therein and to the amended condi~~ referred to ~~suggested~~ in the Govt. Memo.

7/9 28.9.38

7.9.38

To the Secy to Govt Rev Dept with encls. (P. 279 to 283)

84757 2nd 45656

BOARD OF REVENUE 8 SEP 1938 MADRAS

GOVT. OF MADRAS

Revenue Department.

Memorandum No. 5718 F/37-7, dated 5th September 1938.

Suit - Land - (South Kanara) - Mangalore Taluk - Kankanady B village - S. Nos. 11-1-A etc. - Burial ground - O.S. No. 314/38 on the file of the District Munsiff of Mangalore.

As the written statements to be filed by the Mangalore Municipality and the Collector of South Kanara in the suit quoted above should agree, the Commissioner, Mangalore Municipality is requested to send to the Board of Revenue for its approval a copy of his written statement in advance through the Collector.

B.C. Holdsworth,

Secretary to Government.

To the Commissioner, Mangalore Municipality,
thro' the Chairman.

Copy to the Board of Revenue with reference to its Rofce. B.E. No. 5040/36-14, dated 24th August 1938.

Forwarded.

/By Order/.

Superintendent.

K.V.D.

DESPATCHED 20/SEP 1938

(subject as above)

Ref B/E. 5040.36.16 dt 15.9.38

Communicated to the Collr of South Kanara with reference to his letter No Rej. C.4613-38A3 dt 30.7.38

To the Collr. of South Kanara with ref to his Rej C.4613-38A3 dt 30.7.38

Urgent.

Ref. C.No.4613-38-A3.

South Kanara Collector's Office
Camp: Kisaragod, 27th October 38.

Recd on 23 10 38

From

Sri Rao Bahadur M. V. Velloai, B.A.,
Collector of South Kanara.

To

The Secretary to the Board of Revenue,
Land Revenue and Settlement, Madras.

Sir,

Sketch at- p. 245 cf

Suits - Mangalore Dt. Munsif's Court -O.S.314/38 - Mangalore Taluk - Kankanady B.village - S.Nos.11/1A,13,16- Burial ground - alienation to Bishop of Mangalore - Defence -

pp 291-297 cf

I enclose a copy of the plaint in the above suit which is for a declaration that the resumption of the suit plots by 2nd defendant (Government) from 1st defendant (Mangalore Municipality) and its assignment to 3rd defendant (Bishop of Mangalore) are illegal, ultra vires and void. The

p 296 cf

plaintiffs also request a permanent injunction restraining the 3rd defendant from constructing upon the suit plots or any portion thereof any church or building.

2. The alienation of the suit plots to the Bishop forms the subject matter of Board's reference ending with Ref.B.No.

pp.251-252 cf

5040-36-12 dated 22.7.1938 and my reply Ref.C.1110-[illegible]-38 dated

p. 271 cf

31.8.38. No final orders have as yet been communicated to me in this regard. The facts of the case briefly are as follows:-

3. In the year 1887, at the instance of the Municipal Council, Mangalore, the then Collector recommended the grant of a plot measuring 5 acres 29 Guntas 10 annas to the Council free of assessment for the purpose of a burial ground for the Roman Catholics. The Government in their order No.1174

pp 10-11 cf (W)

Revenue dated 20.12.1887 accordingly sanctioned the proposal. The Municipal Council thereupon requested the Bishop of Mangalore to state whether he was willing to take over its

management subject to the condition of walling it and carrying out further the requirements of Act IV of 1884 and the Bishop consented to these conditions. The Council in its resolution dated 11.4.1888 accordingly approved the Bishop's proposals and the burial ground thereupon passed into the management of the Bishop. The Bishop walled in the entire burial ground and has been in its possession since that time. The burial ground thus walled in comprises of S.No.11/1 of Kankanady B village measuring 5.73 acres registered as Burial Ground Poramboke and T.S.No.732/2 of Kankanady 'A' village measuring 1 cent but, registered as Road Poramboke in the Revenue records. The latter plot though included within the limits of the burial ground has not been --- included in the plaint properties.

4. In 1935 a Mortuary chapel was raised in the burial ground by the Bishop and simultaneously he also created a new parish called the "Valencia Parish" for the Roman Catholics who lived in the vicinity. Pending construction of a proper church, he also started holding parochial services in the mortuary chapel. Out of the extent available for burial, the Bishop set apart a piece of land measuring 44 cents for burials on payment of grave fees. These actions of the Bishop evoked opposition from some of the dissenting Roman Catholics who represented these facts to the Collector by a petition dated 30.7.35. The matter was enquired into and the Collector in his order D.Dis.3432-35 dated 25.9.35 refused to countenance the Bishop's proposal to use a part of the burial ground for a church as it would be a breach of the condition but, declined to interfere with the practice of levying grave fees as the G.O. handing over the plot did not stipulate free burials. The Bishop thereupon applied for the alienation of a portion of pp. the burial ground measuring 2 acres for a parish church and house. This was refused in Collector's D.Dis.2175-36 dated 28.7.36. The (7 Bishop having subsequently given an undertaking to stop parochial services in the mortuary chapel the question of the alienation of an acre of land denoted as S.No.11/1B for a Parish church and pp. parochial house was ultimately taken up in Board's Ref.No.B.50/40-36-2 Dal

23.3.37. The Municipal Council was thereupon asked whether it would be willing to relinquish this plot to Government. The Council in its resolution dated 6.9.37 having agreed to relinquish it, the Government in their Memorandum No.5719-F/37-2 dated 8.2.38 were pleased to accept the Board's recommendation for the alienation of this plot for the aforesaid use. The Government however observed in the above order that the proper procedure with regard to S.No.11/1. and 1C would be to obtain a relinquishment from the Municipal Council and then to alienate them also to the Bishop for use as a burial ground and for a Mortuary chapel. The Municipal Council which was referred to relinquished the plots in its resolution dated 14.3.38. The question of alienating all the three plots of which S.No.11/1B is for a parish church and parochial house and S.No.11/1A and 1C for a burial ground and a mortuary chapel is now under the consideration of the Board.

5. While the alienation question has thus been pending three Roman Catholics including the Plaintiffs sent me on 31-3-38 a suit notice objecting to the proposed alienation on the ground that it would be illegal and a breach of trust. Their chief contention was that Government had no power to resume a land dedicated for burial and to alienate the same to the Bishop for the construction of a Church. I recorded this suit notice - please see copy of it submitted to the Board with my letter Ref.C.No.1110-38-B3 dated 9-4-38.

6. I have consulted the Government Pleader, Mangalore. In his letter dated 6-9-3 (copy enclosed) he is of opinion that in this case although there is an express dedication by Government of the suit property for the burial ground of Roman Catholics that the user of the land as a burial ground ever since 1888 by the Roman Catholics and its registration in poramboke for the said purpose is a clear evidence of dedication and that it will amount to dedication according to the Judicial decisions on the subject. I question this point of view, for I think this view would prevail if Government were to grant the land to a community other than

the Catholics and the building of a Parish church cannot be said to be ultra vires of a burial ground. He is also of opinion that in view of this dedication, the relinquishment by the Municipality will not put an end of the trust once created and cannot enable Government to alienate it to the Bishop as proposed especially when the beneficiaries oppose such a course. Hence he is of opinion that the suit is maintainable. According to the Government Pleader, however a dedication cannot be revoked except when the purpose of the trust for which it is dedicated has become incapable of performance or with the consent of all the beneficiaries. Th opposition in this case has been by a few and who as Mr. Crombie in his letter Ref.C. No.4776-B3-36 dated 21-10-36 remarked are not among the more influential members of the Community. The Bishop as the head of the community was entrusted by the Council in 1888 with the management of the trust land. The Bishop himself on behalf of the Roman Catho now seeks the alienation of the land for purposes of a Chur and a burial ground of the same community. The erection of a Parish church cannot vary the spirit and purpose of the original grant. It cannot therefore be said that the trust has been revoked.

7. I suggest that in these circumstances the Board may pleased to consult the Government Pleader, Madras as to whether the suit is maintainable in law and if not to accord sanction for the defence of the suit. I may also point out in this connection that the suit in any case is premature. The draft written statement drawn up in consultation with the Government Pleader, Mangalore is enclosed.

8. In the matter of the contentions ~~received~~ raised in para 5 of the plaint I have also consulted the Bishop. He informs me that the whole burial ground is available for free burials except a part of the burial ground measuring 44 cents which has been set apart for the burial ground of the Roman Catholics of the

other Roman Catholics who wish to be buried on payment of grave fees. This practice appears to exist in all the parishes of the diocese including the Town Parishes. The Bishop intends to meet these contentions in the terms mentioned above. I have, ~~no: yes~~ Therefore, adopted a similar defence in the draft written statement - please see para 3 thereof.

9. I have not yet received the draft written statement to be put in by the Commissioner, Mangalore Municipality in the above suit. I shall submit it to the Board as soon as it is received with reference to Board's Ref.C.No.B/E 5040-36-16 dated 15-9-38.

10. The plaint is dated 14.7.1938 I received a copy of the plaint with the summons on 25.7.1938. The suit is posted to 30.9.1938.

The connected records had in this case to be got from the Board's office and steps taken to draft the written statement thereafter, on further verifying the facts mentioned in paragraph 3 of the Draft Written Statement. The 3 months' time allowed under rule 5 of Order XXVII of the C.P.C. has not been given in this case. I have asked the Government Pleader, Mangalore to represent this to the Court and obtain an adjournment by about a month. I shall intimate to the Board the date to which the suit stands adjourned.

11. I enclose the records noted in the margin.

Enclosure.

1. Copy of Government Pleader's letter. pp 1-2 & 9 cf pp 299-303
2. Copy of D...S.
3. Copy of plaint. pp 294-298
4. Collector's D.Dis. 1974/38. (N)
5. Do. D.Dis.2175/36. (T)
6. Do. D.Dis.3432/35. (Y)
7. Do. D.Dis.9072/29. (X)

For Collector.

28.9.38

Letter-from the Government Pleader, Mangalore.
To-the Collector of South Kanara.
Dated-Mangalore, 6.9.1938.
No.-Ref.No.A-584/38.

******

Suits - Mangalore District Munsif's Court - O.S.No.314/38 ngalore Taluk - Kankanady village - Valencia Church.

******

Reference: Your letter C.4613-38-A3, dated 13.8.1938.

******

I am herewith enclosing a draft written statement to be led on behalf of the Government in O.S.No.314/38 on the file the District Munsif of Mangalore.

2\ The main question in this case is whether there has been a dedication of the plaint plots for a specific purpose. If there is a dedication, then there is a completed trust which cannot be revoked except when the purpose of the trust has become incapable of performance or with the consent of all the beneficiaries. In the present case the land was set apart by the Government for the specific purpose of a burial ground for use by the Roman Catholics. It has been used as such by the Roman Catholic community ever since the grant. In my opinion there is an express dedication of the plaint land for the burial of the Roman Catholics by the Government when it sanctioned the grant to the Municipality by its order, dated 20.12.1887. Even apart from this, the user of the land as a burial ground ever since 1888, by the Roman Catholics and its registry as poramboke for the said purpose is clear evidence of dedication and will amount to dedication according to the Judicial decisions on the subject.

3\ In the view that this is dedicated land, the relinquishme by the Municipality will not put an end to the trust once create and cannot enable the Government to assign it to the Bishop as proposed especially as the beneficiaries viz., the Roman ------- Catholics of Mangalore oppose such a course.

The suit is maintainable in law.

The connected records sent to me are herewith returned.

(True Copy)

for Collector

IN THE COURT OF THE DISTRICT MUNSIF OF MANGALORE.

Original Suit No.314/1938.

Between

1. Felix Mascarenhas
2. Thomas Souza. ... Plaintiffs.

and

1. The Mangalore Municipal Council, represented by its Commissioner, Sri K. Govindarajulu Naidu.
2. The Province of Madras, represented by the Collector, South Kanara, Sri, M.V.Vellodi.
3. The Bishop of Mangalore Rt.Rev. Dr.V.R.Fernandes. Defendants.

Plaint under Section 26 Order 7 Civil Procedure Code.

The Plaintiffs above-named beg to state as follows:-

1. That 1st Plaintiff is the son of Peter Mascarenhas, of household profession, is aged about 67 years and is residing in Lower Falnir, Mangalore Town. The 2nd Plaintiff is the son of Gabriel Souza and is a Roman Catholic aged about 60 years, of household profession, and is residing in Flanir, Mangalore Town.

2. The 1st defendant is the Mangalore Municipal Council and is sued by its Commissioner, Sri K.Govindarajulu Naidu and is a non-Brahmin aged about 37 years, and residing in Kankanady Road, Mangalore Town. The 2nd defendant is the Province of Madras and is represented by the Collector of South Kanara Sri M.V.Vellodi, residing in Collector's Bungalow, Mangalore. The 3rd defendant is the Bishop of Mangalore, Dr. V.R.Fernandes and is residing in Bishop's House, Mangalore.

3. Plaintiffs are Roman Catholic residents in and rate payers of the Mangalore said Municipality.

4. The 2nd defendant granted to 1st defendant by its order dated 20-12-1887 No.1174-Revenue, a plot of land 5.73 cents

free of assessment for use as a burial ground for the Roman Catholics of Mangalore more fully described in Schedule annexed hereto. In the proceedings of the General Meeting of the Municipal Council of the Town of Mangalore held on 29-2-1888 after recording G.O.No.61 M.Misc.123-1-1888 communicating sanction to the transfer by The Mangalore Municipality of lands required for burial places for Roman Catholics, the Roman Catholic Bishop of Mangalore was invited to state if he was willing to take over the management of the R.C. Cemetery subject to the condition that he encloses it with a substantial wall and that the provisions of Act IV of 1884 be carried out to their full extent. The Bishop of Mangalore by a letter dated 15th March 1888 stated that he was willing to take over the place assigned for the Roman Catholic Cemetery subject to the condition laid down in Resolution No.4 dated 26-2-1888 and the Mangalore Municipal Council approved of the Bishop's proposals.

5. The plot was accordingly handed over to the Bishop. The Bishop enclosed the site by a mud wall. The wall has fallen down or collapsed in some places which have been fenced by some wooden hedge poles but sufficient for cattle to stray in. The present management of the Cemetery however have laid down certain stipulations as regards burials demarcating it into three classes or grounds, 1st, 2nd and 3rd, with burial fees of varying degrees so much so that free burials are denied to the Roman Catholics on account of the strenuous insistence of all payments in advance before the priest consented either to allot the space for the grave or to bless the dead body in fulfilment of the last rites enjoyed by the church and by Canon law.

6. These iniquitous burial charges have become and are a menace to the poorer Roman Catholics and their petitions to the church authorities and to the Parish Priest of Valencia, now in charge of Valencia Cemetery, not to insist upon them have been of no avail but have made the church authorities more determined to enforce the strict rule of payment in advance before the dead can be honoured.

On or about 1-3-1935 the Bishop of Mangalore constituted

the Valencia Parish by a decree and that pending construction of a church and a Parochial house, the church services were being held in the Mortuary chapel in the said Cemetery. About 70 families of the old Milagres Parish included within the area demarcated for the new Valencia Parish objected to their ---- separation from the Milagres Parish and objected to their --- arbitrary assignment to Valencia. The Bishop modified his order in some cases where the richer family was able to pay the Bishop a sum of Rs.200/- (Rs.Two hundred) to be retained in the Parish of Milagres.

8. It may be mentioned here that the mortuary chapel referred to supra was completed early in 1935 and it was inaugurated on 10-2-1935. The Bishop applied to the Collector to assign a small portion of the centre of the Cemetery for location of the Parish church but the said petition was not granted.

9. The fact that church services were being regularly held in the Mortuary Chapel and that high fees for burial are being collected was intimated by some Roman Catholics to the Collector who in his proceedings dated 25.9.1935 declined to interfere in the matter of collecting burial charges and also stated, but if the Mortuary chapel is developed into a Parish church then there is a breach of the conditions. Much more if any priest's residence is erected there. The Bishop cannot vary the use of the land without reference to Government. The application of another Roman Catholic to hand over a part of the land for the purpose of the new Valencia Church to be built was also rejected.

10. The matter was taken up by the Mangalore Municipal Council, on the representation of some Roman Catholics, that church services are being held in the Mortuary chapel but the latter thought that no action was then necessary in view of the statement of the Bishop that the mortuary chapel has not been converted into a Parish church. This statement on the face of it was false and against the overwhelming evidence placed by

some of the Roman Catholics before the Municipal Council and when it was so argued and proved and as a resolution on the subject was before the Council the Commissioner addressed the Bishop of Mangalore and asked for definite information on the following points.

(1) whether the mortuary chapel is changed into a Parish church or is constructed into one.

(2) For accounts of the burial fees collected from the parties by the Bishop or his subordinates. The Bishop in his letter dated 20.8.1936 admitted that pending construction of a new Parish the mortuary chapel is also used for Parochial services temporarily and that 44 cents has been allotted for burials for the paying Section of Valencia Parish and of the whole of Mangalore and that the right of people for free burials is not taken away. The Bishop took the stand that the council has no authority to interfere in the levy of burial fees.

11. The matter was argued before the Municipal Council as to whether any action should be taken against the Bishop for violating the terms of the grant and for holding services in the chapel converted into a parish church and a resolution of Messrs. K. A. Narayan and A. V. Baliga was voted against by a majority of the Councillors they having been gained over by the undue influence of the Bishop and his powerful supporters. The matter rested there for some time.

12. Subsequently however the 3rd defendant seems to have written to Government that he may be pardoned for violating the terms of the grant and that an acre of land may be granted to him to build a church in the cemetery. The Government asked the Bishop to close the church before any other request could be considered and the church was accordingly closed. The 3rd defendant who has ample lands in the vicinity of the plaint plot kept pursuing the question out of sheer reward for his prestige and on account of his high influence.

13. Recently the Government asked the Municipality if they had any objection to relinquish one acre of land to the Bishop

of Mangalore to build a church and a Parochial house and again the Council said they had no objection, despite a suit notice sent to the 1st defendant on 6.10.1937 which was referred to a committee which however could not come to a decision and now it has been recorded as per letter of the Commissioner, dated 3.6.1938 D.Dis.C.No.3471/D2-38.

14. The Government have since made over the entire burial ground to the Bishop and a suit notice dated, 31.3.1938 sent to the 2nd defendant has been recorded in D.Dis.1974-38, dated 26th April 1938.

15. The plaintiffs submit that once the land has been dedicated for burial and the more so when it has actually been used for burial purposes, the dedication is complete and Government have no power to resume it and assign it to any other person for any other purpose. The building of a Parish church and a Parochial house thereon would be a distinct breach of the original dedication grant and a breach of trust and is illegal and ultra vires.

16. The 2nd defendant having handed over the plaint plot to the 3rd defendant, the latter is busy making preparations for the construction of a pucca church and Parish house within the A Schedule property and if this is allowed, the graves standing on the site will be defaced and violated. Further there is no other Municipal burial ground for Roman Catholics. All these acts and omissions infringe the Civic and legal rights of the Plaintiffs in Schedule A property and as all attempts of theirs to set right matters have failed they are constrained to file this suit.

17. Plaintiffs file this suit on behalf of themselves and also for and on behalf of the Roman Catholics of Mangalore and a separate application has been filed under Order 1 rule 8 Civil Procedure Code for permission to sue.

18. The notice under section 350 of the District Municipalities Act to the 1st defendant and under section 80 of the C.P.C. to the 2nd defendant have been served on them respectively.

19. The cause of action for this suit arose on 17.7. when the 1st defendant resolved not to take action against the 3rd defendant for infringing the terms of the grant and on 6.9.1937 when the 1st defendant agreed to assign one acre of land to 3rd defendant and on 14.3.1938 when the 2nd defendant handed over the entire land to defendant at Mangalore Town within the jurisdiction of this court and when the Schedule A property is being used contrary to the terms of the grant.

20. Plaintiff values the reliefs sought for at Rs.100/- for purposes of court fee and jurisdiction and a court fee of Rs.11.3.0 is paid under section 7 iv (c) V (b) and section 17 and Article I of Schedule I of the Court Fees Act.

21. Plaintiffs pray for a decree and judgment

in extent and on which an assessment of Rs.5.12.0 is payable.

Sd/- J. M. Sequeira,

Vakil for Plaintiffs.

(True Copy.

For Collector.

28 9.22

IN THE COURT OF THE DISTRICT MUNSIF OF MANGALORE.

O. S. No.314/1938.

Between

Felix Mascarenhas and another .. Plaintiffs.

And

The Mangalore Muni... Council) and others.) Defendants.

Written statement of the 2nd defendant under Order VIII Rule 1 of Act V of 1908.

The abovenamed defendant begs to state as follows:-

1. That the address of this defendant is as stated in the plaint.

2. This defendant admits that the Collector of South Kanara recommended to the Government the transfer of 5 ac 29 guntas and 10 Anis of land to the Mangalore Municipali as a burial ground for the Roman Catholics and the same was sanctioned by the Government. This defendant learns that the Mangalore Municipality by its resolution dated 11-4-1888 made over the management of the said cemetery to the Bishop of Mangalore subject to the condition of enclosing it with a wall and observing the provisions of Act IV of 1884 and that the Bishop of Mangalore has ---- continued in management thereof ever since the date by enclosing the ground with a mud wall.

3. This defendant does not admit that the enclosure is now in such a state as to allow cattle to stray into the ground. The whole of the burial ground with the exception of about 44 cents of land, which is reserved for the burial of Roman Catholics who can afford to pay grave fees is available for the burials. The reservation of

the said extent of 44 cents of land wasmade as a result of the constitution of the new parish called "Valencia" which was carved from out of the two town parishes viz., the Cathedral and the Milagres parishes, for the burial of the paying section of the said parish and of other Roman Catholics who chose to be buried there on payment of grave fees. These 44 cents have been subdivided into classes and grave fees vary according to the class in which the burial takes place. This subdivision is in accordance with the practice which obtains in all the parish churches of the Diocese of Mangalore and the same has been adopted in the new parish of Valencia also

4. Even otherwise this defendant submits that the levying of a reasonable fee for burial by persons in charge thereof is neither unlawful nor contrary to the grant in the present case. Allowing of free burials was not a condition of the grant of 1886

5. This defendant is not concerned with the allegations in para 6.

6. This defendant learns that on or about 1-3-1935, the Bishop of Mangalore created a fresh parish known as the ---- "Valencia Parish in Mangalore but is not concerned with the origin and history of the said Parish. This defendant further learns that for some time pending construction or a proper church, the church services were temporarily being held in the mortuary chapel standing on the cemetery in --- question. When this defendant brought it to the knowledge of the Bishop that it is not proper to so hold the services in the mortuary chapel he by his letter dated 20-1-1937 undertook that the church services would not be thenceforward held there and they have accordingly not been held there since that date.

7. It is true that when the parishioners complained

to the Collector of South Kanara about the levying of the fees for burials in the cemetry and the holding of the church services, he passed an order declining to interfere in the matter of collecting burial charges, but held that in case the mortuary chapel is converted into a regular church it would be a breach of the condition.

8. It is for the 1st defendant Municipality to meet the allegations contained in para 10 and 11 of the plaint.

9. That there was an application to this defendant from the Bishop of Mangalore for alienation of 1 acre of land out of the suit land for the construction of a church and a parochial house. The Board of Revenue considered that the same can be alienated by the Government in his favour only if the Municipality relinquishes it. The Municipality was accordingly consulted whether it is willing to relinquish S.No.11/1B of Kankanady B village one acre in extent for the said use. The Council on that passed a resolution dated 6-9-37 stating that it has no objection to relinquish the said S.No. 11/1B measuring 1 acre in extent and required for the parish church. The Government accordingly by their Memorandum dated 8-2-38 accepted the Board's recommendation to alienate S.No.11/1B to the Bishop of Mangalore for use as a parish church and a parish house.

10. As regards S.No. 11/1A and 11/1C of the said Kankanady B village, the Government considered that the proper procedure will be to obtain a relinquishment of the said land also and to alienate them to the Bishop of Mangalore for use as a burial ground and a chapel attached thereto. When the Municipal Council was consulted upon the said matter it passed a resolution dated 14-3-1938 stating that "the Council relinquishes to the Government the plots S.Nos. 11/1A and 1C of Kankanady B village unconditionally for alienation of the same in favour of the Bishop of Mangalore for use as a burial ground and a chapel

attached thereto.

11. This defendant submits that the relinquishment of the said plots S.Nos. 11/1A, 1B and 1C has not yet been accepted by this defendant nor is it true that the entire plots have been made over to the Bishop of Bangalore. As such the present suit as framed is premature.

12. This defendant submits that the description in the plaint of the plots originally assigned is incorrect. The plot so assigned taken with it also T.S.No. 732/2 one cent in extent which is wrongly demarcated as Road Poramboke, are really forms part of the burial ground and is in the possession of the 3rd defendant.

13. This defendant denies that the plaint properties were dedicated for any purpose. They were made over to the Municipality for use as a burial ground. It is also denied that the Government have resumed the land and assigned it to any other person for any other purpose. S.Nos. 11/1A and 1C were throughout in the possession of the 3rd defendant for the said purpose instead of his being in management under the Municipality for use as a burial ground and what the Government proposed to do make over

14. It is denied that S.No.11/1B has been at any time used as a burial ground and that the Government have no right to alienate it for a parish church in case the Municipality to whom it was originally granted relinquishes it. It is further denied that there is any substantial variation from spirit and purpose of the original grant in alienating it to the said purpose.

15. This defendant submits that the plaint plots are very vast and the plaintiffs would not be put to any injury by the Government alienating S.No.11/1B a small portion thereof to the 3rd defendant for the construction of a church, which will be for the benefit of the Roman Catholic public at large. The plaintiffs not sustaining any substantial injury are not entitled to maintain the present suit.

16. This defendant submits that the land originally belonged

to the Government and was made over to the 1st defendant for a specific use. In case the 1st defendant relinquishes it, the land again re-vests in this defendant and the Government have a right to make use of it in any manner they deem best. The plaintiffs have no right to question the action of the Government and as such the suit of the plaintiff is not sustainable. The plaintiffs have no vested interest in the plaint plot and they are not entitled to maintain the present suit.

17. It is further denied that there is anything in law fettering the right of the Government to resume the land in question, or that in doing so this defendant would be acting ultra vires of their power and would be committing any breach of trust.

18. The suit as framed in a representative character is defective, previous permission to do so not having been obtained.

19. All other allegations not expressly traversed herein are hereby denied.

Prays therefore that plaintiffs suit may be dismissed with costs.

South Kanara Collector's office,
Mangalore, dated 27-9-1938.

Asst Collector.

28/9/38

Very Urgent.

Ref.C. 4613-38-A3. South Kanara Collector's Office,
Mangalore, dated 1 - 10 - 1938.

From

Sri Rao Bahadur M.V.Vellodi, B.A.,
Collector of South Kanara.

To

The Secretary to the Board,
Land Revenue and Settlement,
M a d r a s.

Sir,

Suits - Mangalore Dt. Munsif's court -O.S. 314/38 - Mangalore Taluk - Kankanady village - S.No. 11/1A.1B1C -Burial ground - alienation to Bishop of Mangalore - Draft written statement of the Commissioner, Mangalore Municipality.

Refce: 1. Board's Ref.No. B/E No.5040-36-16 dated 15-9-38.

2. Letter No. 9019-38-D2 dated 27-9-38 of the Commissioner, Mangalore Municipality.

I enclose a copy of the draft written statement which the Commissioner, Mangalore Municipality proposes to file in the above suit. The draft written statement is in agreement with the facts mentioned in my draft written statement submitted to the Board with my letter dated 27-9-38. In paragraphs 12 and 16 of the draft written statement the Commissioner lays the entire blame on Government. There is no real objection to allow this to stand as the denial of the responsibility by the Commissioner will not make the position of Government worse.

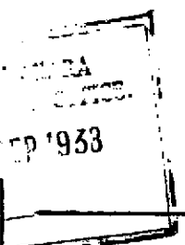
2. The draft written statement contains a few grammatical and other unimportant mistakes which I am pointing out to the Commissioner for being rectified.

DEPARTMENT.

Received ..... 19 *Registered* 19

Subject.

Suit - Land - Mangalore Taluk - Kankanady Village. O. S. No. 314 of 1938 on the file of the District Munsif, Mangalore. ********



ENCLOSURES.
No. .....
.....
Spare copies .....

No. 9019/38/B2

Station Mangalore, , *Dated the* 27th September 1938.

From (Name) Sri K.Govindarajulu Naidu, B.A.,
(Designation) Commissioner, Municipal Council, Mangalore.

To The Secretary to the BOARD OF REVENUE Madras,
Madras.
Through
The Chairman, Municipal Council, Mangalore,
&
The Collector of Kanara.

Sir,

I enclose herewith a copy of the draft written statement prepared by the Chairman of the Municipal Council regarding the above suit. The statement will be placed before the Municipal Council and then presented to the Court.

anwhile I propose to request the Court to grant

me some time for filing the written statement.

Commissioner. M.M. 7/9/

F o r w a r d e d:

27th Septr.1938 | Chairman, M.C.

Compd/ 27/9

H.D.U.27/9

IN THE COURT OF THE DISTRICT MUNSIF OF MANGALORE

O. S. No. 314
1938

Between:

Felix Mascarenhas & another .. Plaintiffs

The Mangalore Municipal Council)
represented by its Commissioner,)
Sri K. Govindarajulu Naidu and) Defendants.
others.)

Written statement under order VIII rules 1 & 2 of Act V of 1908.

The 1st defendant named above states as follows :-

1. That the address of the 1st defendant for service of all process etc in this suit is as stated in the plaint.

2. That the 1st defendant admits that the Government of Madras by its order dated the 20th December 1887 granted a plot - subsequently demarcated at the time of Survey as S.F. No.11/A2A of Kankanady village - to the 1st defendant free of assessment for the purpose of being used as Catholic Christian burial ground.

3. The order of the Government having been communicated to the 1st defendant the 1st defendant by its resolution No.4, dated the 29th February 1088 invited the 3rd defendant to state if he was willing to take over the management of the Roman Catholic Cemetery subject to the conditions that he encloses it with a substantial wall and that the provisions of Act IV of 1884 are carried out to their full extent and

the 3rd Defendant having expressed his willingness to take over the place assigned as aforesaid for the burial of Catholic Christians subject to the conditions referred to above the 1st defendant passed a Resolution on 11th April 1888 to the following effect " The Bishops proposals are approved ".

4. That ever since then the Cemetery was under the management of the 3rd defendant.

5. A representation having been made to the Collector of South Kanara by some Roman Catholic Christians of Mangalore complaining about the levying of fees and construction of a Chapel, the Collector by his proceedings dated the 25th September 1935 declined to investigate the question of levying burial charges but observed that if the Mortuary Chapel was developed into a Parish Church or if a priest's residence was erected there, the conditions of the grant would be broken, the land having been given free for a specific purpose and held that the Bishop cannot vary the use of the land without reference to Government. A copy of the proceedings was sent to the 1st defendant.

6. On receipt of the copy of the proceedings the 3rd defendant was informed by the then Commissioner of the 1st defendant that utilising the plot otherwise than as burial ground will mean violation of the conditions on which it was given and he was requested to state whether there was any proposal to have chapel or any residence for any parish priest on the plot, and the 3rd defendant by his letter dated the 25th October 1935 intimated to the 1st defendant that no orders had been issued by him nor had any proposal so far been submitted to him to have Chapel or

residence constructed in S.F.No. 11/A2A of Kankanady village and that the conditions under which the plot had granted will be maintained & ~~without~~ been/without previous reference to Government the use of the land will not be varied.

7. The copy of the Proceedings of the Collector of South Kanara referred to above was placed before a meeting of the 1st defendant Council held on 30th March 1936 and the following resolution was passed.

"In view of His Lordship the Bishop's letter to say that the mortuary chapel has not been converted into a Parish Church, no action is necessary"

8. Complaints having been received with regard to the management of the burial ground by the 3rd defendant and the Mortuary chapel was being used as chapel and the 3rd defendant having contended that the member of the 1st defendant ~~Council moved the following resolution~~ had no right to interfere with the internal management such as levying fees etc. A member of the 1st defendant council moved the following resolution at a meeting of the Council held on 7th September 1936 namely

"That this Council does not approve of the present use of the burial ground in question by apportioning portions of it to different classes of Roman Catholic Christians, according to a graduated scale of payments or for certain institutions and restricting the user of different portions subject to the condition of payment and also the to use of the Mortuary Chapel standing on the plot as a Church even though it may be temporary and is of opinion that the present user of the plot in question is an infringement of the condition under which the plot was handed over for management to His Lordship the Bishop. This Council therefore requests His

Lordship the Bishop to refrain from using the plot or the Mortuary Chapel contrary to the terms and conditions under which the management was made over to him".

The resolution was opposed by some of the Councillors and after Mr. J. M. Sequeira (for the persons who complained against the 3rd defendant's management) and Mr. P.D. Souza (who appeared on behalf of the 3rd defendant) were heard, the resolution was put to vote and was declared lost. The allegation in the plaint that the Councillors who voted ~~the~~ against the resolution had been gained over by the undue influence of the Bishop and his powerful supporters is denied.

9. This defendant is not aware of the correspondence between the 3rd defendant and the 2nd defendant but the Collector of South Kanara sent a copy of the proceedings of the Board of Revenue dated the 23rd March 1937 and by his letter dated the 8th April 1937 asked the 1st defendant to state if the 1st defendant was willing to relinquish S.No.11/1B out of the burial ground aforesaid unconditionally to Government.

10. The above letter from the Collector of South Kanara together with the relevant copy of the proceedings of the Board of Revenue were placed before a meeting of the Council held on 6th September 1937 and the following resolution was passed namely, "that the Council resolves to intimate to the Collector of South Kanara that it has no objection to relinquish S.No. 11/B of Kankanady B village measuring one acre required for the Parish Church".

11. The 1st defendant learns and verily believes the Government, the 2nd defendant accepted the recommendation of

the Board of Revenue that the land in S.No.11/1-B may be alienated in favour of the 3rd defendant for use as a Parish Church and a Parish house and that the Board was requested to admit the necessary alienation proposals. The Collector of South Kanara by his letter dated the 27th February 1938 referred to above stated that the Government considered that the proper procedure will be to obtain relinquishment of S.No.11/1A and 1C by the Municipal Council, the 1st defendant and then alienate them to the 3rd defendant.

12. The 1st defendant was not responsible either for the recommendation of the Board of Revenue or for the decision of the Government that the land may be alienated in favour of the 3rd defendant or the subsequent alienation thereof in favour of the 3rd defendant and the plaintiffs can have no cause of action against the 1st defendant.

13. The letter of the Collector of South Kanara referred to above together with the relevant papers were placed before a meeting of the Council held on 14th March 1938 and the Council by its resolution of even date relinquished to the Gove nment th plots 11/1A and 1C of Kankanady B village unconditionally for alienation of the same in favour of the 3rd defendant for use as a burial ground and a chapel attached thereto.

14. That this defendant submits that this resolution was passed in compliance with the requisition of the Collector of South Kanara communicating the decision of the Government.

15. That this defendant admits receipt of a notice dated the 6th October 1937 from the plaintiff's and that the same was referred to committee which however did not arrive at any decision apparently as the Council had already passed the resolution dated the 6th September 1937 referred to

above and there was nothing further to be done.

16. This defendant does not admit the correctness of the law as propounded in para 15 of the plaint. In any event the land having been alienated by the 2nd defendant to this defendant this defendant only relinquished the land in favour of the 2nd defendant and this defendant is not responsible for the subsequent alienation of the land in favour of the 3rd defendant which must be deemed to have been done by the Government on their own responsibility.

17. This defendant denies that this defendant has infringed any of the civic and legal rights of the plaintiffs as alleged. A considerable of the original burial ground / still continues to be a ground which Catholic Christians can use.

18. This defendant does not feel called upon to traverse the several allegations made against the 3rd defendant as it is for the 3rd defendant to meet the same.

19. This defendant puts the plaintiffs to the strict proof of all allegations in the plaint not specifically admitted in the foregoing paragraphs.

20. That this defendant is not a necessary party to the suit especially as no relief is claimed against this defendant (expect costs) and the plaint does not disclose why this defendant is made a party.

21. This defendant is not liable for the costs of the suit.

Sd/B.Venkatrao Baliga,
CHAIRMAN, M.C.

/True Copy/

Municipal Office,
Mangalore,28/9/38

COMMISSIONER.

DESPATCHED
29. SEP. 1938

28/9/38

E5985

Sectt. II-15 (a)—20,000—30-10-37.

GOVERNMENT OF MADRAS

BD OF REVENUE
5 - OCT 1938
MADRAS

Received 193

SEC.
5- OCT 38

Registered 193

Abstract.

Alienation - Land - (South Kanara) - Mangalore Taluk - Kankanadi B-Village - S.Nos. 11-1-A etc. - Burial ground, chapel and church - Roman Catholic Bishop of Mangalore - Papers recorded.

REVENUE DEPARTMENT.

G.O. Nos. 2590, **dated** 4th October **193 8**

ENCLOSURES.

pp. 173-176 cf.
p. 197 cf
H-219-232 cf
p 249 cf
H 269-270 cf
p 247 cf

READ the following paper:—

From the Board of Revenue,		Reference B.No.5040/36-5, dated 17-11-1937.
To the	-do-	Memorandum No.5718 F/37-2, dated 8-2-1938.
From the	-do-	Reference Nos. 5040/36-7 & 8, date 2-5-1938.
To the	-do-	Memorandum No.5718 F/37-5, dated 14-7-1938.
From the	-do-	Reference B.E.No.5040/36-14, date 24-8-1938.
From the	-do-	Reference B.E.No.5040/36-15, dated 6-9-1938.

ORDER:--

Recorded pending the disposal of O.S. No. 314/38 on the file of the District Munsif of Mangalore.

(By Order of His Excellency the Governor)

B. G. Holdsworth,
Secretary to Government.

To the Board of Revenue.

(True Copy)
Forwarded.
(By Order)

V Narasimhalu

Superintendent.

323

E 60-33

Urgent.

Ref.C.No.4613-38-A3. South Kanara Collector's C. [illegible]

Mangalore, 4th October [illegible]

Sri Rao Bahadur A. V. Venkoji, B.A.,

Collector of South Kanara.

To

The Secretary to the Board,

Land Revenue & Settlement,

Madras.

Sir,

Suits - Land - Mangalore District Munsif's Court - C.S.[illegible] Mangalore Taluk - Kankanady Village - S.No.11/1A.1B.1C - Def[illegible]

*****

P 281 cf Reference: (1) Board's Ref.No.E/S.5040/38-16, dated 16.9.1938.

M 283-287 cf (2) my letter Ref.C.No.4613/38/A3, dated 27.9.1938.

*****

The suit stands adjourned to 8.11.1938 for filing the written statement.

[signature]

for Collector. 5/10

5.10.38.

C.F. 16.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying		
When copied		
When examined		
When signed		
When despatched.		

SUBJECT:—

Suits – (South Kanara) Mc Johnk – ~~G.S.~~ Kankanady B
G.S. No. 314/38 – Mangalore D.M.C.

READ AGAIN 25 OCT 1938, dated ____ 19____.

" " ____ " ____ 19____.

READ *ALSO*:—

No. ____ From the ____ No. ____, dated ____ 19____.

" ~~C.885/38~~ " Com. of Sc. Kanara Rfc. A-613-38 A3A 27.9.38 "

" ____ " ____ " ____ " ____ 19____.

Order / Resolution — Ms. / Rout. No. Rufce Dis. Spl. 5040-36+18 A) 24.10.38, dated ____ 19____.

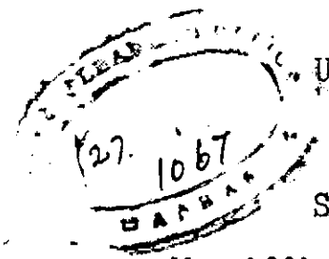
The G.P., Madras is consulted being addressed in the Matter. The Comr. is requested to take an adjournment for filing the draft written statement, if orders are not recd by him in time.

24/10/38
24/10.

24.10.38

Office of the Board of Revenue, M a d r a s.

F.W. Stewart Esq., M.C., C.I.E., I.C.S.,
Commissioner of Land Revenue.



U.O. Refce. B.E. 5040-36-17 dated 24-10-38

Sub:- Suits (South Kanara)- Mangalore- District Munsiff's Court- O.S.314-38- Mangalore Taluk -Kankanady 3 llage- Defence -

Read:- Letter from the Collector of South Kanara, C.4613-38-A.3 dated 27-9-38.

2874

With his letter No.C.4613-38-A.3 dated 27-9-38 the Collector of South Kanara has submitted proposals for the defence of the suit (O.S No.314/38 on the file of the District Munsiff's Court, Mangalore.) The Collector has also submitted draft written statements to be filed by the Government and by the Municipal Council, Mangalore. The Government Pleader, Mangalore, is of opinion that the suit is maintainable, as there has been a dedication for a specific purpose of a burial ground and that it cannot be revoked, except when the purpose of the trust became incapable of performance or with the consent of all the beneficiaries. He states that the user of the land as a burial ground for the Roman Catholics and its registry as poramboke for the said purpose, is clear evidence of dedication and will amount to a dedication according to the

3:3 f
3/9 cf
3/9 cf

the judicial decisions on the subject The Government Pleader, Madras is requested to offer his opinion as to (1) the maintainability of the suit and (2) the suitability of the draft written statement.

As the suit stands posted to 6-11-50 the Government Pleader may be requested to treat this reference as urgent.

V. Raghavaiyengar

Assistant Secretary,
Board of Revenue, Madras.

To the Government Pleader, Madras with enclosures as per list.

AMK, 24/10

Enclosures to Board's U.O. Refce. B.E.5040-36-17
dated 24-10-38:-

1. Current file 2 volumes pp 1-326. (T)
2. Collector's D.Dis.2175/36 dated 28-7-36. (N)
3. Collector's D.Dis.1974-38 dated 26-4-38. (F)
4. " D.Dis.3432-35 dated 25-9-35. (X)
5. " D.Dis.9072-28 dated 19-5-36 (P)
6. S.C. of G.O.1174 Rev. dated 20-12-37. (V)
7. B.P. Mis. 684 dated 30-3-25. (E).
8. Copy of Government Rev. Memo:.
   3530 F-37-4 dated 25-10-37.

Opinion No. 38

Suits - (South Kanara) - Mangalore, District Court Munsiff's Court - O.S.No.314/38 - Kankanady 'B' Village - Defence.

Ref:- Board's U.O. Refce. B.E. 5040-36-17, dated 24-10-38.

I do not agree that registry as a burial ground has the effect of dedication and would have precluded the Government from transferring a portion of the land to ayan and assigning it at any rate if it considered the balance sufficient. (See 59 M.L.J.844, 52 Mad.25, 38 L.W.83, (1931) Mad.793).

The present is not however a case of registry simplicitor. It is an assignment apparently under order 24 of the Board's Standing Orders by the Government to the local body and an allotment by the latter as burial ground under Sec.234 of the old District Municipalities Act (Sec.280 of the present Act). Once it has been so done, the only way that the allotment can be cancelled would seem to be by taking action under Sec.240 (Sec.283 of the present Act). Closure under that action might revive the rights of the municipality or in this case that of the Government in whose favour the municipality has relinguished its rights of ownership. No action seems to have been taken so far under this section. In the absence of such action, the plaintiff would have a cause of action. A strict construction of the power of the municipality under this section, I think, is called for in these matters as they involve religious considerations and in England, the power is hedged in with great amount of restriction and is governed by special statutes. Read literally, the section does not seem to contemplate closure of a part.

I

I see, the municipality is given power of levying fees by the present Act (Sec.280) but the old Act did not contain any such rule! In England, in the absence of statutory power, or immemorial custom, fees could not be levied.

The draft written statement raises all the available points and does not call for any special revision

The records received are herewith returned.

B Sitarama Rao

Madras, 28-10-38. Government Pleader.

5040

227

C.F. 16.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying	7.11.38	
When copied	7.11.38	
When examined	7.11.38	
When signed	7/11/38	
When despatched.	Enclosures 8.11.38	

(Mr SWS)

SUBJECT:—

Suits - (S. Kanara) Mangalore Dr Munsiff's Court - O.S. 314/38 - Kankanady 'B' village - Defence Sanctioned.

RECEIVED 8-NOV1938

READ AGAIN dated 19.

" " " 19.

READ *ALSO*:—

No. From the E 5885-38 - Q pp. 283-287 cf No. , dated 19.

" " E. 5935-38 - Q - P 305 cf. " 19.

" " E. 5985.38 - A Page 321 cf " 19.

" " E 6033-38 - Q - Page 323 cf E. 6546-38 - Q pp 331-332 cf.

Order / Resolution — Ms. / Rout. No. , dated 19.

Confdl. Ref B.E. 5040. 36.19 of 11.38

Communicated to the Chn of South Kanara.

2. The Board sanctions the defence of the suit in O.S. no 314/38 on the file of the Dt. Munsiff's Court Mangalore and also approves the draft written statements submitted with his letter & read above.

3. A copy of the opinion of the G.P. Madras is also enclosed.

8/11/38

5/4/38

5711

To The Chn of South Kanara:

with a copy of G.P.O opinion (pp 331 & 332) & enclosures as per list rets.

'A' at P. 287 the copy sent.

↓

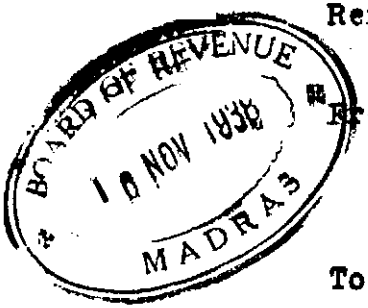
Pl arrx section

8.11.38

86733 335

Ref. A3-4613-38.

South Kanara Collector's Office,
Mangalore, dated 6 - 11 - 1938.



From

Sri Rao Bahadur M.V.Vellodi, B.A.,
Collector of South Kanara.

To

The Secretary to the Board,
Land Revenue and Settlement,
M a d r a s.

Sir,

Suits - Land - Mangalore District Munsif's court - O.S.No. 314/38 - Mangalore Taluk - Kankanady village - S.No. 11/1A, 1B, 1C - Defence.

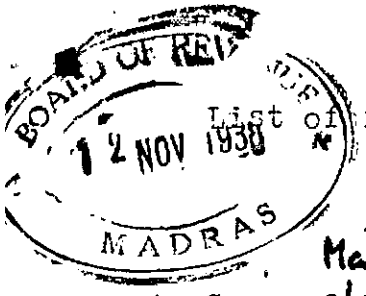
13259

Ref: Board's Ref. B/E.No. 5040-36-18 dated 24-10-38.

An adjournment has been obtained and the suit now stands posted to 30-11-38 for the filing of the written statement.

771

For Collector.



List of records sent with Board's Reference B.E.5040/36-19, Confdl., dated 7-11-1938.

1. Copy of Government Pleader's letter. Mdss 28.10.38

~~2. Copy of D.F.C.~~

~~3. Copy of plaint~~

4. Collector's D.Dis. 1974/38.

5. do. D.Dis. 8175/36.

6. do. D.Dis. 8482/35.

7. do. D.Dis. 9072/29.

To the Collector of South Kanara.

Received all the records referred to above

S. Kanara Collector's Office
Mangalore 10.11.38

U Ramarao
11.10.38
Manager Branch

C.F. 16.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying	22/11/38	
When copied	23/11	
When examined	1.12	
When signed	24/11/38	
When despatched.		

Pol. C.W.S

SUBJECT:—

Alienation - Land - (South Kanara Mangalore taluk - Kankanady B. Vill S. Nos. 11/1A etc - Burial Ground, claim R.C Bishop of Mangalore - Papers pending result of suit O.S. 314/38 Mangalore Dt. Munsiff's Court.

READ AGAIN _____, dated _____ 19____.

" " _____ " _____ 19____.

READ *ALSO*:—

No. _____ From the _____ No. _____, dated _____ 19____.

2334 " E.6733/38 " Conservator of Forests A3-6613/38 " 6.11.38 19 38.

" _____ " _____ " _____ " _____ 19____.

~~Order~~ (Ms.) Resolution ~~Rout.~~ No. 3282, dated 24/11/38 19____.

Transcription - land - (S. Kanara)
Mangalore Taluk - Kankanady B Village.
Burial Ground - R.C. Bishop of Mangalore.

AH-5(L B5040/36

D.S.(CR)

Please see the Collector's letter at pages 1—5 C/.

2/. The history of the case is briefly as follows:—

The land S.No. 11/1, of Kankanady B' village, measuring 5.73 acres was transferred to the Municipal Council, Mangalore of cost for use as the site of a burial ground for the R.C. Christians. The Municipal Council however handed over the land to the Bishop of Mangalore for burying and the purposes of the grant.

In 1935, a mortuary chapel was constructed on the land. The Bishop want to convert this into a parish church and to build a parish house and a kitchen attached with. This was resented by a section of the Roman Catholics and the present trouble began. The agitators also objected to the Bishop levying fees for

the burials. For a summary of the objections please see p 5 of B lodged B 3897/36. They presented petitions against the Bishop's action to the Municipal Council to whom the land in question was originally transferred and to the Collector and have submitted copies of the petitions to the Board. It is stated that these agitators have no standing. But the question for consideration is whether there is any truth in their representations.

The land was given to the Municipal Council for a specific purpose viz. for a burial ground and the construction of the church on the land would be a violation of the conditions of grant. As regards the question of the levy of fees for burials, the Municipal Council will be within its rights to do so under Sec 280 (1) of the Bombay Municipalities Act of 1920, but as the Bishop is managing the land on behalf of the Council, it is for consideration whether the application of the section can be extended to the Bishop, and whether this would also amount to a violation of the conditions of the grant. It may be observed that the

no fees were levied for burials till the end of 1924. The agitators brought out that the intention of the grant was that the burials should be free. There may be some force in this contention as otherwise it would have been likely that assessment would not have been forgone. There is no question of alienation of land revenue in the proposals now submitted by the Collector. Only a small portion is reserved now for burials on payment of fees and the amount realized thereon is being utilised for repair to the wall enclosing the burial ground.

The Collector reports that the Harijan Sevak Sangh's land is already being used as a cremation ground though the use is said to be temporary at present. As pointed out above, the construction of buildings on the land granted as for a burial ground was a clear violation of the conditions of the grant. The petition wants to regularise the said action by obtaining alienation of the land.

In order to put a stop to the disagreement between the agitators and the others and to avoid all future trouble, it is proposed to alienate a portion of

the land for Church Hall Vicarage etc.
with portion for burial ground Ass
as for burials on payment of fees &
the other portion for free burials.
Attention is invited to the above note
re Correction on the deputation of the
Bishop and the R. C. association w
the Hon'ble the Revenue Member. The Colle
ment proposal is based on that note
the arrangement proposed may not be
acceptable to the agitators, who want
the whole plot for free burials in view
where needs, but as the land proposed
be set apart for this purpose is pretty
nge, viz. 3.63 acres, which is reported
be quite sufficient, their objection
may perhaps be overruled.

The Bishop's consent to the
conditions of alienation has not yet
been obtained. The market value of the
land involved in present case is
Rs 7162-8-0 (this excludes the cost of
improvements effected by the alinee), and
the orders of the Govt. have to be obtained
for the alienation. If the Board agrees
the Collector's proposals, the Collector may
be asked to obtain the consent
of the Bishop to the conditions of

alienation, begs to submit that the Govt Sec

3/. Some of the residen

BR 9.11.36 of the locality who object to the existence
10.... of a church on a portion of the land
transferred to the Municipality for use as a
roman catholic burial ground seem to have
some ⊛ grievances against the church in
religious matters. The Sub. Coll^r has reported
that there will be no communal trouble if the
alienation proposals are sanctioned. There
appears to be no reason for the Govt to interfere
with the internal working of the church. The
Coll^r proposals may perhaps be approved and
he may be asked to obtain the consent of the
proposed alienee to the usual conditions. It
appears unnecessary to obtain the consent for
the condition regarding the proper maint-
enance of the existing buildings as they
were all constructed by the church authorities.

4/. The booklet at p 35 cf. is one issued by a
private person justifying the action of the
Bishop in having ordered
[illegible] a new

SE 10/11/36.

Mr L. P. Fernandes o
interviewed M, this afternoon
in connection with this subject.

Mr. Sreshta M.L.C. saw the present
M.L.A. myself on 16.10.36 on behalf
of the Bishop. M.L.A. has not however
expressed any opinion.

The objections proposals do
not appear to be objectionable; as it is
reported that a large extent is left
for free burials. But it was irregular
to have constructed any building when
the land was transferred to the Municipal
Council for use as a burial ground
& to have collected fees without previously
bringing the matter to the notice of the G

10 May 1937 Mr. Jones
Blackwood's note questions - indicating the | A
reason which is to be given as justifying the
resumption - to be added. The actual terms of the | B.

This order at A.

Of the papers referred to at A, all those at pp 39-43 of relate to this file; the remaining papers relate to two suits which are being dealt with in the A section. Those papers have therefore been handed over to that section for further action.

It is submitted that in the representation at pp 39-43 of, no new facts which were not already before the Board, have been brought in. Another Copy of the booklet at pp 45-46 of was presented before the A.S. and is in the file at pp 35-36 of.

Order at B

And in pursuance was mortgaged to the Mangalore Municipality free of assessment, for use as a burial ground Please see G.O. No 1174 Rev dt 20.12.88. No further conditions were imposed in the order of grant. Subsequent to the grant, the Municipal Council handed it over for management, to the Bishop of Mangalore subject to conditions that the plot should be enclosed by a compound wall and that the provisions of Act IV of 1882

convey we carried on. The Bishop has constructed a mortuary chapel now used as a church and has been collecting fees for burials since 1934. The transfer of the plot to the Bishop by the Municipal Council was unauthorised and amounts to a violation of the grant. And the construction of the buildings on a portion of the plot is a violation of the condition of the grant, as the plot was transferred to the for'ase as a burial ground only.

It may also be noted that the grant was free of assessment. It may therefore be presumed that the Govt. might not have impose the assessment on the land, if there was any idea of collecting fees for burials. If this is accepted, the collection of fees by the Bishop will amount to a violation of the condition of the grant. It seems therefore that the Govt. can will be

of the Municipality p34 of was transfer was there anything in

by

p8 cf g (v)

Reference to the c of the grant of whi is said to be vi

A mortuary chapel accessory to Christian So the construction is no violation of the But the use of a part land as the site of church is a violat

I am surprised to fin anybody in the Bom office attempting to re into a grant of la made under the Co Grants Act as all are made - a time is not explicit in actual grants. The position is will be

of Mayglare subject to the condit
that the provisions of the Municipal
Act of 1884, - Secs. 234 to 242 - shou
be carried out by him to their
full extent. These sections of the
Act of 1884 were replaced by §§ 278
to 285 of the Act of 1920. § 280
of the latter Act permits the levy
of fees for the use of the burial
ground. Messrs Gavan & Crumb
appear therefore to be correct in holdi
that the levy of the fees by the
Bishop cannot be considered
as violation of the purpose for whi
the Govt: transferred the land
to the Municipality, though perhaps
the Govt: may change assessmen
when it is found that the
Bishop get a net income from
the fees. Nor does the Municipalit
transfer of the management of
the burial ground to the Bishop
seem to constitute such a violati

The present use of a portion of
the land for a Parish Church
is undoubtedly a violation of
the purpose for which it was
transferred, and this may be que

as the reason for the resumption of the land. For orders, whether in the entire extent or only the portions misused that should be recommended for resumption.

'Very well
Yes
For this reason there ought to be the Church Authorities as an the people actually responsible for the work there
Do you the whole plan?

WD
8.12.06

A JS

The building that has already been constructed is in the plan I.A and sketch on p. 27 C.f. The plan on which the Bishop wants permission to build a parish church is I.B. Strictly we can resume only I.A. but the application of the Bishop amounts to saying that I.B is required as a burial ground. I think ∴ that both I.A & I.B may be resumed.

JM

Very well then. We can resume I.B. because it is not being used and will not be used though it can be used as a burial ground. How else of them are we to deal with them? Even then do we the natives of this country affect?

To A.S.(R)

Please see Member's pencil remarks at or the margin of the notes at pp 8-10 and the notes at p 49 C.f.

1. W/C Avery 1-A. on p8 ns.

From p12 of the booklet submitted by the petitioner, it will be seen that the Municipality passed a resolution for an expert that the Bishop's proposal to take over the land may be approved. It is not known whether there was any deed of conveyance in the Govt. may be asked to ascertain & report on this point. Draft submd.

With reference to ~~no information~~ the orders of M, on p 49 Cs, para 2 of the Draft is added.

~~after submitted~~.

W/ 22.12.30

308/27

2 (Cr raw reg no 3040/30-A) 4.1.1931

53 Cs B 519/27

To ~~A.S(CR)~~

Please see the previous ~~papers~~ regn no 57-52 Cs and the Collr's reply with is enclosed at pp 53-61 Cs

2/. Attention is invited to the marginal remarks of M, at pages 9-10 ns above.

The Collr reports that there are no records relating to the transfer of the ~~burial ground~~ management of

of the burial ground by the Municipal Council to the Bishop of Mangalore except the two resolutions of the Council of 29.2.1888 and 11.4.1888. Although the extract from the letter of the Bishop refers to the taking charge of the place assigned for the Roman Catholic Cemetery, it should be read with the previous resolution of the Municipal Council, which specifically refers to the transfer of the management of the plot to the Bishop and it should be held that only the management of the burial ground was transferred.

As regards the transfer of the land by the Govt. to the Municipal Council, it is submitted that the transfer was not saddled with any condition. Apart from the correspondence noted at (R), it may be seen that the land was transferred to the Municipal Council for the purpose of a burial ground.

The land is being used for the purpose for which it was originally assigned to the Council. The Bishop has constructed a mortuary chapel on the land and M. has observed

that a mortuary chapel is an accessory to Christian burials and that the construction is not a violation of the grant; but that the use of a portion of the land as the site of a parish church is a violation. The Bishop has now stopped the Sunday services in the mortuary chapel and has also given an assurance that the services will not be repeated there. There is therefore no violation at present.

In these circumstances there appears to be no reason to resume the land from the municipality. Unless the municipal Council itself relinquishes the land there appears to be no question of alienation in favour of the Church authorities. The grant...

In order - 3/. With reference to the portion marked A in the representation 5.837 - favour of the church authorities at p 39 cf. it is submitted that it is not correct as the Municipal Council transferred only the management of the burial ground by its resolution. It is not known why the property is not borne on the registers of

opinion municipality. It appears to me that the Local Authorities as property has been transferred to it.

SG
8/3/37.

10/3/37

The position now is that the land which the Bishop wants for erecting a Parish Church is not at the disposal of Govt. It also can be considered only when the Municipality relinquishes. For orders whether the College may be asked to enquire into it will do so.

WS
7.3.37

AJS

In view of the fact that parishes have been started there is

Suggestion in my

Swaminathan I.A. (on p. 27 CF)

I had pointed out that the existing a mathamy chapel is no visible

There is of course the encumbrance I.B is not required for as a burial ground that the B. wants it for building a parish But this by itself cannot be

a justification for resuming it or

The question now is therefore that there is no ground on which we can resume the whole or a portion of the land. If the Bishop wants 1.13 for a parish Church the plot will have to be relinquished by the Municipal Council. This is a matter to be settled between the Bishop & the Council. The Collector may be informed that there are no grounds to justify resumption & that he may address the Board in due course if the latter expresses willingness to relinquish the plot 1.13 so as to enable the ~~Bishop~~ land be alienated to the Bishop for building a parish Church.

17.3.37

M.I.

is now no obstacle in the way of assigning alienating the plot 1.13 in favour of the Bishop for the purpose as the Municipal Council will furnish it. Telephone enquire whether it is

18.3.37

ADS

A.S. (R)

TO A.S. (R)

Draft submitted.

19/3/37

19.3.37.

22337

O.A.S.(LR)

B.D's Rep.B.Sdno.-36-2 dt 23.3.37

B. 17/8/37

Pl. see the Chb's report at pp 58 of the B.D's
at pp 63-64 of the petitioner at pp 68-71 of the
the petn. alleges that parish services are
still being performed in the mortuary chapel.
For orders whether the petn. is to be forwarded to
the Court for a report on the allegations or
whether the petn. is to be filed as no grie-
ous report at pp 3 of the

Sig
7/8/37

AJS

(15 Oct)

pp 26 - 64 ✓	Bd's Refce no B.5040/36-2 of 23-3-37.
p 83 ✓	Bd's Refce no B.5040/36-3 of 13-5-37
pp 95 - 100 ✓	confdl 207/37 - From the Coll. Refce B3-4776-36 of 17-5-37
pp 133 - 135 ✓	B.4538/37. Roman catholics of Mangalore. Petn of 10-5-37
pp 143 - 144 ✓	B.4654/37 - do - do of 23-5-37

To Asst Secy.

The Coll's letter at pp 55 - 100 of is in reply to the Board's Refces at pp 63-64 & 83 of. Please see also the petitions from some Catholics of Mangalore objecting to the alin of S.no 11/1B of Kankanady (B) village for purpose of the Parish Church.

The Coll has not submitted office DCs files returned to him with the Board's Refce at pp 63-64 of. He may be asked to submit them.

Draft submitted.

KR 3.10.37

BL 1.10.37

TS (A) 1.X.37.

May go. But - presumably this will have to wait until the Govt formulate their policy. TS

J.S(A)
A.S(LR).

Board's Office no. B.5040/38-44 2-10-38 — p/15-1/f

B.5073/37 - From the Colls. of S.Kanara: Rep.B3-6776-36 — p/153-1/f — Revised not
B.5212/37. Petition dated 17.10.37. 11.10.37. — pp/155-171/f — submitted a
To Asst Secy. — ordinarily A.

[The notes in the previous paras need not be perused]

The correspondence in this file relates to the alienation of 3.73 acres of land in S.No. 11/1 of Kankanady Village, Mangalore taluk, S.Kanara dt. in favour of the Roman Catholic Bishop of Mangalore for the construction of a Parish church & for the formation of a burial ground attached thereto for the use of the Roman Catholics of Mangalore.

The history of the case briefly stated is as

was erected on the land by some priests of the Roman Catholic church & was actually being used as a church, though the use was said to be temporary. The Bishop proposed to convert it into a permanent Parish church & to construct a parish house on the land and applied to the Govt for the alienation of the land. ~~for the purpose mentioned above~~. A section of the Roman Catholics objected to this on the ground that the construction of the chapel was a violation of the grant & that the conduct of the parish services in the cemetery was irregular.

4. M I has observed that a mortuary chapel is an accessary to Christian burials that its construction is not a violation of the grant; but that the use of a portion of the land as the site of a parish church is a violation. The Bishop has now stopped the parish services in the Chapel & has also given an assurance that the services will not be repeated there. In the circumstances the construction of the chapel in a portion of the land vide S. no 11/1 A is not a violation of the grant.

5 As regards S. no 11/1 B required by the Bishop for the construction of a praish church M I has pointed out that there is no obstacle

in alienating it in favour of the Bishop for use as the site of a Parish Church, if the Municipal Council will relinquish it. The Municipal Council has now agreed to relinquish the plot. But the section of the Roman Catholics who objected to the use of the land as a parish church, have submitted a memorial to the Hon'ble the Minister for Public Health & petitions to the Board protesting against the action of the Municipal Council. Attention is invited to the Coll's remarks in para 3 of his d at pp 99-100 of. In the circumstances c in which the petitioners' objections will have overruled & the land alienated in fav of the Bishop as already observed by M

6. The extent of S. no. 11/1B resumed from the Control of the M proposed to be alienated in favour of the Bishop is one acre. The market valu of the land amounts to Rs 1250/-. The proposals for alienation of the land will have to be submitted to the Govt for sanction. But as the Govt have ordered that all applications for the alienation of land or land revenue in cases in whic the extent of land involved is one

them, the question of alienating the lands in the present case may be deferred & the memorial submitted by a section of the Roman Catholics to the Hon'ble the Minister for Public Health may be submitted to Govt with a report of the facts of the case. The Board may recommend that the objections of the memorialists may be over-ruled and the land alienated in favour of the Bishop. On receipt of the orders of the Govt formal proposals for the alienation may be called for from the Collector.

6.11.37 J.S. (A.) 8.11.37

To Asst Secy

Draft submitted.

15/11/37 15/11/37 J.S. (A)

6300. Petition of 10-12-37.

To Asst Secy.

Please see the petition at pp. 177-175 of. It is only a copy of the petition addressed to the Hon'ble the Minister for Public Health through the Coll. of S. Kanara. No action is necessary on it, as the Coll will submit the original petition sent through him. This may be added on to the file.

22/12/37. 29.12.37 JS (A)

B.D.'s Rep. B.5040/36-5 of 17-11-37)

B. 1188. Asst memo no 5718/37-2 of 8.2.38.

To Asst Secy.

Please see the Asst memo at p. 15) of. The Coll may be asked to submit the alienation proposals called for by the Asst.

Draft submitted.

JS (A)

5238/10/1

16.2.38

B.D.'s Rep B.5040-36-6 of 17-2-38

B. 3880. From the Coll of S. Kanara Rep. c. 1110-38 dt 7-4-38

To Asst Secy

Please see the Coll's letter at p. 20 of. The Board has already recommended

Bd's agda 5046-36-6 of 17-2-38

B. 3860. Frontier Colls & S. Kanara Ref 1110-38
7-4-38

To Asst Secy.

Please see the orders at ℓ 21 ng on the Board's Agda at ℓℓ 173-176 of. In this memo at ℓ 157 of the Govt have called for proposals to alienate the lands in favour of the R.C. Bishop of Mangalore. The Mgl Council has relinquished S. nos. 11/1A & 11/1C unconditionally. The Coll has submitted proposals for the alienation of the lands in favour of the Bishop they may be submitted to the Govt.

Two drafts submitted.

S(A-1)

225 of — Bd's agda 5046-36-7 of 2-5-38

227 - 232 of — Bd's agda 5046-36-8 of 2-5-38

235 of — B. 3816. Govt memo no 5718-F 31-5 of 10-5-38

To Asst Secy.

Please see the Govt memo at 235 of.

The presumption expressed in para 1 of the Govt memo is correct. Please see the penultimate sentence of para 1 of the Coll's letter at ℓ 201 of. The Govt

may be informed accordingly.

We shd may be asked to furn the information required in para 2 of the fort mems.

Two drafts submitted.

IS
23/5

2.5338

23/5

BD's dy B.5040-36-5 of 26-5-38.

BD's dy B.5040-36-10 of 26-5-38.

B.6385 - From the Colls of Jamaica - Dep

C.1110-38-8 11-6-38

To Asst Secy

The Colls's letter at p.4 1 of is in reply to para 2 of the fort memo at p.235 of the information furnished by the Colls may be reported to the fort.

Draft submitted

IS
15/6

16.6.38

15/6

BD's dy B.5040-36-11 of 16.6.38

B.5167 - fort mems nos 5718 F/37-5 of 4-7-38

To Asst Secy

Please see the fort memo at p 245 of the letter may be asked to obtain the consent of the Colls to the

H.3411

p.251-252 cf 3d'o Reyce B. 5840 36. 12 of 22-7-38

p 253 cf 3. 5800. Coll's letter Reyce. 4613-38-A3 of 28-7-38

To Asst Secy.

Please see the Coll's letter at p 253 cf. The files required by him may be sent to him.

Draft submitted

28/7

12

(LR) P.267 cf 4289.38. Collr of South Kanara C.4613.38 A3 30.7.38

at p.245 cf

The collector's letters at pages 53 and 267 cf. are submitted for perusal

2. Attention is invited to the notes at pages 18-21 N.F. which contains the history of the case relating to the alienation of S.No 111/1 of Kankanady 'B' village, Mangalore taluk for burial ground and parish church. The Board recommended to the Govt. that the objection to the alienation may be over-ruled and the land alienated in favour of the R.C. Bishop of South Kanara. The Govt. accepted the Bd's recommendation

P 197 cf and the alienation proposals have been submitted to the Govt. and they are pending receipt of the consent of the Bishop to certain conditions.

P. 249 / 251 cf.

PP 255-261 cf. In the suit now filed, the Municipality the Govt. and the Bishop of Mangalore are defendants

P 267 cf The Collector considers it desirable that the written statement of the Municipality and the

~~Hon'ble~~ Board agree and that a draft Government to be filed by the Municipality may be ordered to be sent to ~~from~~ the Board through the Coll'r. for appn the Collector's letters may be submitted to the Govt with the recommendation that the Govt. may be pleased to direct the Commissioner of M Mangalore Municipality to send the Copy of his written statement in advance for approval thro' the Col for orders.

~/838
W/1918

20.8.38.

SECY.
22 AUG 1938

2/8

SLR

suit posted to 2-11-38

H 283-287 cf
h 305 cf
h 321 cf
h 323 cf

E.5895/38, (From the Collector of S. Kanara, Ref. C.4613/38 d 27-9-38.)
E. 5933/38 (Do. Do. d 1-10-38.)
E.5935/38 (From Govt. Rev. Memo2590 ..s. dated 4-10-
E.6033/38 (From the Collector of S.Kanara, Ref. c.4613/38 d 4-10-38.)

Revised note

To A.S.I.R.

h 194 cf

In their memo. No. 5718 F. 38-1 dated 8-9-38 the Govt. approved the proposal to alienate S.No. 11/1A and 11/1C of Kankanady 3 Village, Mangalore taluk, for a burial ground and a chapel and S. No. 11-13 for a Parish Church, and a Parish House, in favour of the Roman Catholic Bishop of Mangalore and called for alienation proposals.

sketchat h 245 cf

-do-

h 161 cf and 201 cf
H 219.233 cf
h 321 cf
h 258 cf

The Municipal Council, Mangalore relinquished these lands and alienation proposals were submitted to the Govt. The Govt. have recorded the proposals, pending in the disposal of a suit (O.S. No. 314/38) filed by certain Roman Catholic Christians in the Dt. Munsiff's Court, Mangalore. The suit is posted to 2-11-38. The reliefs claimed by the plaintiffs are (1) a declaration that the resumption of the land from the Municipal Council is ultra vires and void, and (2) a permanent injunction restraining the Bishop of Mangalore from constructing any church on the land. The Govt., the Municipal Council, Mangalore, and the Bishop of Mangalore, are defendants. The Collector ~~Mangalore~~ has submitted the draft written statement prepared by the local Govt. Pleader. A copy of the draft written statement prepared by the Municipal Council, Mangalore, has also been submitted.

h 323 cf
plaint cf. 297 cf } h 296 cf

-do-

h 291 cf

H 299.303 cf

H 309.319 cf

The Govt. Pleader, Mangalore, is of the opinion that the suit is maintainable, as there has been a dedication for a specific purpose of

vision at h 289 cf

for 2 f. do.

of a burial ground, and that it cannot be revoked, except when the purpose of the trust became incapabl of performance, or with the consent of all the beneficiaries. He states that the user of the land as a burial ground, and its registry as poramboke for said purpose, is clear evidence of dedication and will amount to a dedication according to the judicia decisions on the subject. The Collector questions this point of view. He states that this view would prevail if Govt. were to grant the land to a Communi other than Catholics; and that the building of a Par Church cannot be said to be ultra vires of a burial

He is of the opinion that the trust cannot be said been revoked by the proposed alienatic.., ... that in any case, the suit is premature. The Collector's view appears to be correct. It does not appear necessary to consult the Govt. Pleader, Madras, as suggested by him. The defence of the suit may be sanctioned and the draft written statement approved.

Mr 299-303 & 309-319 cf

[Notes from p. 27 may be read]

38
038

2/1908

Consult the G.P. Madras as to
(1) the maintainability of the suit
(2) the suitability of the site
The letter seems to me under
lying

2. Note whether the H.C.'s order
agrees with that of Govt.

3. Please remember that I do
not ordinarily over-rule a pleader
but unless I am satisfied that
[illegible] 24/1

SECY. 24 JAN 08

(LR) AS(LR)

Members Remarks Para 2.

Noted: Letter ~~draft~~ of

The draft written statement to be filed by the Municipal Council agreed with that to be filed by the Govt.

2. The following G.O. reference ~~draft~~ to the G.P. Madras ~~may be approved~~ is submitted for

(S. Kamara)

Suits |- Mangalore Dt. Munsaffs Co O.S. 314.38- (~~South Kanara~~) Mangalore Taluk. Kankanady B. village = defence.

Read

M 283.28/4 ✓5885.38- Corr. of S. Kanara. C. 4613-38-93 D 27.9.38

P.M. Rem DD 24.X.38

✓

G.O. Refer B.P. 5040.36.17 D 24.10.38.

M 283.28/4

DISPATCH

D 27.9.38, the Collr. of South Kanara has submitted proposals for the defence of the Suit (O.S. No 314/38 on the file of the D.M.C. Mangalore.) the collr. has also submitted draft written statements to be filed by the Govt and by the Municipal Council, Mangalore. The G.P., Mangalore, is of opinion that the Suit is maintainable, as there has been a dedication for a specific purpose of a

revoked, except when the purpose of the trust become incapable of performance or with the consent of all the beneficiaries. He states that the user of the land as a burial ground for Catholics and its registry as pramboke for the said purpose, is clear evidence of dedica and will amount to a dedication according to the judicial decisions on the subject. The G.P. Madras is requested to offer his opinion as (1) the maintainability of the ~~suit~~ suit a (2) the suitability of the draft written statem ~~did the Board decides to be~~ long.

As the Suit stands posted to 2.11.38 ~~it~~ may be requested to break his cqs

3 The suit is posted to 2.11.38

The Collr. may be asked to take an adjournment for filing the written Statement if orders are not received by him in time.

Draft filed

9/11/10 24/10/38

To the Govt. Pleader Mad with enclosures

current file @ 2 vols pp. 1- 324.

booklet - (W)

collector DDis 2175/36 (I)
28.7.36

copy DDis. 1974.38 (N)
26.4.38

" DDis. 3432.35 (F)
25.9.35

" D.Dis. 9072.29 (X)
19.5.30

S.C.J ~~Go 1887~~ Rw
9.0.1174 Rw 20.12

PSB. Mis 684 D 30.3.25 (

copy of Govt Rw Memo. 3530 & 37.48 25.10.37 (E)

pp 327/328 cf Boards L.O. Refce B.E. 5040.36/7 & 24.10.38

p. 325 cf Boards Ref B.E. 5040.36.18 & 24.10.38

2) pp. 331-332 cf E65B6-38 [Govt Pleaders opinion 38 & 28.10.38]

The Govt Pleader, Madras has been consulted and his opinion is at pp. 331-332 cf. He Considers that, as the local body has allotted the lands for the present purpose [burial ground for Roman Catholics] this allotment should be cancelled by taking action under Section 240 of the old Dt. Municipalities Act and as no action has been taken under this section, the plaintiff would have a Cause of action. He also Considers that this section does not seem to contemplate closure of a part.

According to § 240 of the old Dt. Municipalities Act, action for the closure of the site can be taken only when it is considered that the site is in such a state or is likely to become dangerous to the Health of persons living in the neighbourhood or if the site is overcrowded with grave or another site has been set apart for the purpose. It is not clear how action under such Section could have been taken in the present case as neither of the alternatives satisfies the

Para 6a

The G.P. Madras does not agree with the Local Govt Pleader Mangalore that the mere registry in the accounts as a burial ground has the effect of dedication and that it would preclude the Court from transferring a portion to another head if they considered the balance sufficient. He also considers that the draft written statement of the raises all the available points and does not require any amendment. The defence of the suit may be amended and the draft written statements may be approved. The Court order recording the proposals pendi & the G.P's opinion at Pp 331-332 of the disposal of the suit may also be Commund to the Govt.

M-1

I/forward the G. P's opinion (Madras) for communication confidentially.

5/11

SECY.
5 NOV 34

AS(LR)
Box)

p335y

E.6733/38 [From the Collr. of S. Kanara

Ref. A3-4613-38 dt 6.11.38]

p321y

No action is necessary on the Collector's letter. The Govt. have recorded the proposal pending the result of the suit. The Board has sanctioned the defence of the suit and orders were communicated to the Collr. in its ref-ce at p. 333 cf. No further action is now necy. The papers may be recorded and the Collr. may be asked to intimate to the Board the result of the suit in due course. Draft submitted.

[A call book entry will be made & the Collr. will be reminded on 1.3.39]

1.7.39

Ltr 7.11.38
LR 16/11

LR 17/11/38

7 Cog (P)

Copy of Sections 234 and 240 of the Old Dt. Municipalities Act.

234 (1). The Municipal Council (shall) provi a sufficient number of convenient and fit ting places for burial (add burning) grounds, either within or without the lim of the Municipality.

(2) Whenever the Municipal Council ha provided any such place beyond the Munici pality, all the provisions of this Act an all by-laws framed under this Act for the management of such places within the Muni pality shall apply to such place.

****

240 (1).

If the Muncipal Council are satisi that any rigistered or licensed burial o burning ground is in such a state as to or to be, likely to become, dangerous to health of persons living in the neighbou thereof, or that any such place is over-crowded with graves,

and, in the case of a public burial or burning ground, that another convenient duly authorised for burial or burning, a case may be, has been provided for the persons who would ordinarily make use of such place,

they may, with the previous sanction of the Governor-in Council, issue a notice that it shall not be lawful, after a period of not less than two months to be named in such notice, to bury or burn any

ıny corpse in or on such first-mentioned burial
ır burning-ground.

(2) Every such notice shall be published in the
)t. Gazette and in the Municipality by beat or drum

(3) Whoever, after the expiration of such period
ıuries or burns, or causes or permits to be buried o
ermits to be buried or burnt, any corpse contrary
o the terms of the notice, shall be liable to a fi
ıot exceeding Rs. 100.